Calendar No. 723

103d CONGRESS S. 2467

[Report No. 103-412]

A BILL

To approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

November 22, 1994
Reported without amendment

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103D CONGRESS 2D SESSION

S. 2467

[Report No. 103-412]

To approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27 (legislative day, SEPTEMBER 12), 1994

Mr. MITCHELL (for himself, Mr. MOYNIHAN, and Mr. PACKWOOD) (by request) introduced the following bill; which was referred jointly to the Committees on Finance, Agriculture, Nutrition, and Forestry, Commerce, Science, and Transportation, Governmental Affairs, the Judiciary, and Labor and Human Resources pursuant to 19 U.S.C. 2191(c)(1)

NOVEMBER 22, 1994

Reported under authority of the order of the Senate of October 3 (legislative day, September 12), 1994 by Mr. Moynihan (from the Committee on Finance), and on behalf of Mr. Leahy (from the Committee on Agriculture, Nutrition, and Forestry), and Mr. Glenn (from the Committee on Governmental Affairs), without amendment

NOVEMBER 22, 1994

Committees on Commerce, Science, and Transportation, the Judiciary, and Labor and Human Resources discharged, pursuant to (19 U.S.C. 2191(e)(2)).

A BILL

To approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the
- 5 "Uruguay Round Agreements Act".
- 6 (b) Table of Contents.—

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

- Sec. 101. Approval and entry into force of the Uruguay Round Agreements.
- Sec. 102. Relationship of the agreements to United States law and State law.
- Sec. 103. Implementing actions in anticipation of entry into force; regulations.

Subtitle B—Tariff Modifications

- Sec. 111. Tariff modifications.
- Sec. 112. Implementation of Schedule XX provisions on ship repairs.
- Sec. 113. Liquidation or reliquidation and refund of duty paid on certain entries.
- Sec. 114. Modifications to the HTS.
- Sec. 115. Consultation and layover requirements for, and effective date of, proclaimed actions.
- Sec. 116. Effective date.

Subtitle C-Uruguay Round Implementation and Dispute Settlement

- Sec. 121. Definitions.
- Sec. 122. Implementation of Uruguay Round Agreements.
- Sec. 123. Dispute settlement panels and procedures.
- Sec. 124. Annual report on the WTO.
- Sec. 125. Review of participation in the WTO.
- Sec. 126. Increased transparency.
- Sec. 127. Access to the WTO dispute settlement process.
- Sec. 128. Advisory committee participation.
- Sec. 129. Administrative action following WTO panel reports.
- Sec. 130. Effective date.

Subtitle D-Related Provisions

- Sec. 131. Working party on worker rights.
- Sec. 132. Implementation of rules of origin work program.
- Sec. 133. Membership in WTO of boycotting countries.
- Sec. 134. Africa trade and development policy.
- Sec. 135. Objectives for extended negotiations.
- Sec. 136. Repeal of tax on imported perfumes; drawback of tax on distilled spirits used in perfume manufacture.
- Sec. 137. Certain nonrubber footwear.
- Sec. 138. Effective date.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

Sec. 201. Reference.

Subtitle A—General Provisions

- Sec. 211. Action with respect to petitions.
- Sec. 212. Petition and preliminary determination.
- Sec. 213. De minimis dumping margin.

- Sec. 214. Critical circumstances.
- Sec. 215. Provisional measures.
- Sec. 216. Conditions on acceptance of suspension agreements.
- Sec. 217. Termination of investigation.
- Sec. 218. Special rules for regional industries.
- Sec. 219. Determination of weighted average dumping margin.
- Sec. 220. Review of determinations.
- Sec. 221. Review determinations.
- Sec. 222. Definitions.
- Sec. 223. Export price and constructed export price.
- Sec. 224. Normal value.
- Sec. 225. Currency conversion.
- Sec. 226. Proprietary and nonproprietary information.
- Sec. 227. Opportunity for comment by consumers and industrial users.
- Sec. 228. Public notice and explanation of determinations.
- Sec. 229. Sampling and averaging; determination of weighted average dumping margin.
- Sec. 230. Anticircumvention.
- Sec. 231. Evidence.
- Sec. 232. Antidumping petitions by third countries.
- Sec. 233. Conforming amendments.
- Sec. 234. Application to Canada and Mexico.

Subtitle B—Subsidies Provisions

PART 1—COUNTERVAILABLE SUBSIDIES

Sec. 251. Countervailable subsidy.

PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS

- Sec. 261. Repeal of section 303.
- Sec. 262. Imposition of countervailing duties.
- Sec. 263. De minimis countervailable subsidy.
- Sec. 264. Determination of countervailable subsidy rate.
- Sec. 265. Assessment of countervailing duty.
- Sec. 266. Nature of countervailable subsidy.
- Sec. 267. Definition of developing and least-developed country.
- Sec. 268. Upstream subsidies.
- Sec. 269. Determination of countervailable subsidy rate.
- Sec. 270. Conforming amendments.

PART 3—SECTION 303 INJURY INVESTIGATIONS

Sec. 271. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.

PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT

- Sec. 281. Subsidies enforcement.
- Sec. 282. Review of subsidies agreement.
- Sec. 283. Amendments to title VII of the Tariff Act of 1930.

Subtitle C—Effective Date

Sec. 291. Effective date.

TITLE III—ADDITIONAL IMPLEMENTATION OF AGREEMENTS

Subtitle A—Safeguards

- Sec. 301. Investigations, determinations, and recommendations by International Trade Commission.
- Sec. 302. Action by President after determination of import injury.
- Sec. 303. Miscellaneous amendments.
- Sec. 304. Effective date.

Subtitle B-Foreign Trade Barriers and Unfair Trade Practices

- Sec. 311. Identification of foreign anticompetitive practices.
- Sec. 312. Consultation with committees.
- Sec. 313. Identification of countries that deny protection of intellectual property rights.
- Sec. 314. Amendments to title III of the Trade Act of 1974.
- Sec. 315. Objectives in intellectual property.
- Sec. 316. Effective date.

Subtitle C-Unfair Practices in Import Trade

- Sec. 321. Unfair practices in import trade.
- Sec. 322. Effective date.

Subtitle D—Textiles

- Sec. 331. Textile product integration.
- Sec. 332. Amendment to section 204 of the Agricultural Act of 1956.
- Sec. 333. Textile transshipments.
- Sec. 334. Rules of origin for textile and apparel products.
- Sec. 335. Effective date.

Subtitle E—Government Procurement

- Sec. 341. Monitoring and enforcement of the agreement on government procurement.
- Sec. 342. Conforming amendments.
- Sec. 343. Reciprocal competitive procurement practices.
- Sec. 344. Effective date.

Subtitle F—Technical Barriers to Trade

- Sec. 351. Technical barriers to trade.
- Sec. 352. Effective date.

TITLE IV—AGRICULTURE-RELATED PROVISIONS

Subtitle A—Agriculture

PART I-MARKET ACCESS

- Sec. 401. Section 22 amendments.
- Sec. 402. Cheese and chocolate crumb imports.
- Sec. 403. Meat Import Act.
- Sec. 404. Administration of tariff-rate quotas.
- Sec. 405. Special agricultural safeguard authority.

PART II—EXPORTS

- Sec. 411. Export programs.
- Sec. 412. Other conforming amendments.

PART III—OTHER PROVISIONS

- Sec. 421. Authority for certain actions under Article XXVIII.
- Sec. 422. Tobacco imports.
- Sec. 423. Tobacco proclamation authority.
- Sec. 424. Report to Congress on access to Canadian dairy and poultry markets.
- Sec. 425. Study of milk marketing order system.
- Sec. 426. Additional program funding.

Subtitle B-Sanitary and Phytosanitary Measures

- Sec. 431. Sanitary and phytosanitary measures.
- Sec. 432. International standard-setting activities.

Subtitle C—Standards

Sec. 441. The Federal Seed Act.

Subtitle D-General Effective Date

Sec. 451. General effective date.

TITLE V—INTELLECTUAL PROPERTY

Sec. 501. Definition.

Subtitle A—Copyright Provisions

- Sec. 511. Rental rights in computer programs.
- Sec. 512. Civil penalties for unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.
- Sec. 513. Criminal penalties for unauthorized fixation of and trafficking in sound recordings and music videos or live musical performances.
- Sec. 514. Restored works.

Subtitle B—Trademark Provisions

- Sec. 521. Definition of "abandoned".
- Sec. 522. Nonregistrability of misleading geographic indications for wines and spirits.
- Sec. 523. Effective date.

Subtitle C—Patent Provisions

- Sec. 531. Treatment of inventive activity.
- Sec. 532. Patent term and internal priority.
- Sec. 533. Patent rights.
- Sec. 534. Effective dates and application.

TITLE VI—RELATED PROVISIONS

Subtitle A—Expiring Provisions

- Sec. 601. Generalized System of Preferences.
- Sec. 602. U.S. insular possessions.

Subtitle B-Certain Customs Provisions

- Sec. 611. Reimbursements from customs user fee account.
- Sec. 612. Merchandise processing fees.

Subtitle C—Conforming Amendments

Sec. 621. Conforming amendments.

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

Subtitle A—Withholding Tax Provisions

- Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
- Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

- Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
- Sec. 712. Time for payments and deposits of certain taxes.
- Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.

Subtitle C-Earned Income Tax Credit

- Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
- Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
- Sec. 723. Income of prisoners disregarded in determining earned income tax credit.

Subtitle D-Provisions Relating To Retirement Benefits

- Sec. 731. Treatment of excess pension assets used for retiree health benefits.
- Sec. 732. Rounding rules for cost-of-living adjustments.
- Sec. 733. Increase in inclusion of social security benefits paid to nonresidents.

Subtitle E—Other Provisions

- Sec. 741. Partnership distributions of marketable securities.
- Sec. 742. Taxpayer identification numbers required at birth.
- Sec. 743. Extension of Internal Revenue Service user fees.
- Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
- Sec. 745. Modification of authority to set terms and conditions for savings bonds.

Subtitle F-Pension Plan Funding and Premiums

Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 751. Minimum funding requirements.
- Sec. 752. Limitation on changes in current liability assumptions.
- Sec. 753. Anticipation of bargained benefit increases.
- Sec. 754. Modification of quarterly contribution requirement.
- Sec. 755. Exceptions to excise tax on nondeductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 761. Minimum funding requirements.
- Sec. 762. Limitation on changes in current liability assumptions.
- Sec. 763. Anticipation of bargained benefit increases.
- Sec. 764. Modification of quarterly contribution requirement.

SUBPART C-OTHER FUNDING PROVISIONS

- Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.
- Sec. 767. Single sum distributions.
- Sec. 768. Adjustments to lien for missed minimum funding contributions.
- Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 771. Reportable events.
- Sec. 772. Certain information required to be furnished to PBGC.
- Sec. 773. Enforcement of minimum funding requirements.
- Sec. 774. Computation of additional PBGC premium.
- Sec. 775. Disclosure to participants.
- Sec. 776. Missing participants.
- Sec. 777. Modification of maximum guarantee for disability benefits.
- Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

Sec. 781. Effective dates.

TITLE VIII—PIONEER PREFERENCES

Sec. 801. Pioneer preferences.

1 SEC. 2. DEFINITIONS.

- 2 For purposes of this Act:
- 3 (1) GATT 1947; GATT 1994.—
- 4 (A) GATT 1947.—The term "GATT 1947"
- 5 means the General Agreement on Tariffs and
- 6 Trade, dated October 30, 1947, annexed to the
- 7 Final Act Adopted at the Conclusion of the Sec-

1	ond Session of the Preparatory Committee of
2	the United Nations Conference on Trade and
3	Employment, as subsequently rectified, amend-
4	ed, or modified by the terms of legal instru-
5	ments which have entered into force before the
6	date of entry into force of the WTO Agreement.
7	(B) GATT 1994.—The term "GATT 1994"
8	means the General Agreement on Tariffs and
9	Trade annexed to the WTO Agreement.
10	(2) HTS.—The term "HTS" means the Har-
11	monized Tariff Schedule of the United States.
12	(3) International trade commission.—The
13	term "International Trade Commission" means the
14	United States International Trade Commission.
15	(4) Multilateral trade agreement.—The
16	term ''multilateral trade agreement'' means an
17	agreement described in section 101(d) of this Act
18	(other than an agreement described in paragraph
19	(17) or (18) of such section).
20	(5) Schedule XX.—The term "Schedule XX"
21	means Schedule XX—United States of America an-
22	nexed to the Marrakesh Protocol to the GATT 1994.
23	(6) Trade representative.—The term
24	"Trade Representative" means the United States

Trade Representative.

1	(7) Uruguay round agreements.—The term
2	"Uruguay Round Agreements" means the agree-
3	ments approved by the Congress under section
4	101(a)(1).
5	(8) World trade organization and wto.—
6	The terms "World Trade Organization" and
7	"WTO" mean the organization established pursuant
8	to the WTO Agreement.
9	(9) WTO AGREEMENT.—The term "WTO
10	Agreement" means the Agreement Establishing the
11	World Trade Organization entered into on April 15,
12	1994.
13	(10) WTO MEMBER AND WTO MEMBER COUN-
14	TRY.—The terms "WTO member" and "WTO mem-
15	ber country" mean a state, or separate customs ter-
16	ritory (within the meaning of Article XII of the
17	WTO Agreement), with respect to which the United
18	States applies the WTO Agreement.

1	TITLE I—APPROVAL OF, AND
2	GENERAL PROVISIONS RE-
3	LATING TO, THE URUGUAY
4	ROUND AGREEMENTS
5	Subtitle A-Approval of Agree-
6	ments and Related Provisions
7	SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE URU-
8	GUAY ROUND AGREEMENTS.
9	(a) Approval of Agreements and Statement of
10	Administrative Action.—Pursuant to section 1103 of
11	the Omnibus Trade and Competitiveness Act of 1988 (19
12	U.S.C. 2903) and section 151 of the Trade Act of 1974
13	(19 U.S.C. 2191), the Congress approves—
14	(1) the trade agreements described in sub-
15	section (d) resulting from the Uruguay Round of
16	multilateral trade negotiations under the auspices of
17	the General Agreement on Tariffs and Trade, en-
18	tered into on April 15, 1994, and submitted to the
19	Congress on September 27, 1994; and
20	(2) the statement of administrative action pro-
21	posed to implement the agreements that was submit-
22	ted to the Congress on September 27, 1994.
23	(b) Entry Into Force.—At such time as the Presi-
24	dent determines that a sufficient number of foreign coun-
25	tries are accepting the obligations of the Uruguay Round

- 1 Agreements, in accordance with article XIV of the WTO
- 2 Agreement, to ensure the effective operation of, and ade-
- 3 quate benefits for the United States under, those Agree-
- 4 ments, the President may accept the Uruguay Round
- 5 Agreements and implement article VIII of the WTO
- 6 Agreement.
- 7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
- 8 are authorized to be appropriated annually such sums as
- 9 may be necessary for the payment by the United States
- 10 of its share of the expenses of the WTO.
- 11 (d) Trade Agreements to Which This Act Ap-
- 12 PLIES.—Subsection (a) applies to the WTO Agreement
- 13 and to the following agreements annexed to that Agree-
- 14 ment:
- 15 (1) The General Agreement on Tariffs and
- 16 Trade 1994.
- 17 (2) The Agreement on Agriculture.
- 18 (3) The Agreement on the Application of Sani-
- tary and Phytosanitary Measures.
- 20 (4) The Agreement on Textiles and Clothing.
- 21 (5) The Agreement on Technical Barriers to
- Trade.
- 23 (6) The Agreement on Trade-Related Invest-
- 24 ment Measures.

1	(7) The Agreement on Implementation of Arti-
2	cle VI of the General Agreement on Tariffs and
3	Trade 1994.
4	(8) The Agreement on Implementation of Arti-
5	cle VII of the General Agreement on Tariffs and
6	Trade 1994.
7	(9) The Agreement on Preshipment Inspection.
8	(10) The Agreement on Rules of Origin.
9	(11) The Agreement on Import Licensing Pro-
10	cedures.
11	(12) The Agreement on Subsidies and Counter-
12	vailing Measures.
13	(13) The Agreement on Safeguards.
14	(14) The General Agreement on Trade in Serv-
15	ices.
16	(15) The Agreement on Trade-Related Aspects
17	of Intellectual Property Rights.
18	(16) The Understanding on Rules and Proce-
19	dures Governing the Settlement of Disputes.
20	(17) The Agreement on Government Procure-
21	ment.
22	(18) The International Bovine Meat Agreement.

1	SEC. 102. RELATIONSHIP OF THE AGREEMENTS TO UNITED
2	STATES LAW AND STATE LAW.
3	(a) Relationship of Agreements to United
4	States Law.—
5	(1) United states law to prevail in con-
6	FLICT.—No provision of any of the Uruguay Round
7	Agreements, nor the application of any such provi-
8	sion to any person or circumstance, that is inconsist-
9	ent with any law of the United States shall have ef-
10	fect.
11	(2) Construction.—Nothing in this Act shall
12	be construed—
13	(A) to amend or modify any law of the
14	United States, including any law relating to-
15	(i) the protection of human, animal,
16	or plant life or health,
17	(ii) the protection of the environment,
18	or
19	(iii) worker safety, or
20	(B) to limit any authority conferred under
21	any law of the United States, including section
22	301 of the Trade Act of 1974,
23	unless specifically provided for in this Act.
24	(b) Relationship of Agreements to State
25	Law.—
26	(1) Federal-state consultation.—

1	(A) IN GENERAL.—Upon the enactment of
2	this Act, the President shall, through the inter-
3	governmental policy advisory committees on
4	trade established under section $306(c)(2)(A)$ of
5	the Trade and Tariff Act of 1984 (19 U.S.C.
6	2114c(2)(A)), consult with the States for the
7	purpose of achieving conformity of State laws
8	and practices with the Uruguay Round Agree-
9	ments.
10	(B) Federal-state consultation
11	PROCESS.—The Trade Representative shall es-
12	tablish within the Office of the United States
13	Trade Representative a Federal-State consulta-
14	tion process for addressing issues relating to
15	the Uruguay Round Agreements that directly
16	relate to, or will potentially have a direct effect
17	on, the States. The Federal-State consultation
18	process shall include procedures under which—
19	(i) the States will be informed on a
20	continuing basis of matters under the Uru-
21	guay Round Agreements that directly re-
22	late to, or will potentially have a direct im-
23	pact on, the States;
24	(ii) the States will be provided an op-

portunity to submit, on a continuing basis,

1	to the Trade Representative information
2	and advice with respect to matters referred
3	to in clause (i); and
4	(iii) the Trade Representative will
5	take into account the information and ad-
6	vice received from the States under clause
7	(ii) when formulating United States posi-
8	tions regarding matters referred to in
9	clause (i).
10	The Federal Advisory Committee Act (5 U.S.C.
11	App.) shall not apply to the Federal-State con-
12	sultation process established by this paragraph.
13	(C) FEDERAL-STATE COOPERATION IN
14	WTO DISPUTE SETTLEMENT.—
15	(i) When a WTO member requests
16	consultations with the United States under
17	Article 4 of the Understanding on Rules
18	and Procedures Governing the Settlement
19	of Disputes referred to in section
20	101(d)(16) (hereafter in this subsection re-
21	ferred to as the "Dispute Settlement Un-
22	derstanding") concerning whether the law
23	of a State is inconsistent with the obliga-
24	tions undertaken by the United States in
25	any of the Uruguay Round Agreements.

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the Trade Representative shall notify the Governor of the State or the Governor's designee, and the chief legal officer of the jurisdiction whose law is the subject of the consultations, as soon as possible after the request is received, but in no event later than 7 days thereafter. (ii) Not later than 30 days after receiving such a request for consultations, the Trade Representative shall consult with representatives of the State concerned regarding the matter. If the consultations involve the laws of a large number of States, the Trade Representative may consult with an appropriate group of representatives of the States concerned, as determined by those States. (iii) The Trade Representative shall make every effort to ensure that the State concerned is involved in the development of the position of the United States at each stage of the consultations and each subsequent stage of dispute settlement proceed-

ings regarding the matter. In particular,

the Trade Representative shall—

1	(I) notify the State concerned not
2	later than 7 days after a WTO mem-
3	ber requests the establishment of a
4	dispute settlement panel or gives no-
5	tice of the WTO member's decision to
6	appeal a report by a dispute settle-
7	ment panel regarding the matter; and
8	(II) provide the State concerned
9	with the opportunity to advise and as-
10	sist the Trade Representative in the
11	preparation of factual information and
12	argumentation for any written or oral
13	presentations by the United States in
14	consultations or in proceedings of a
15	panel or the Appellate Body regarding
16	the matter.
17	(iv) If a dispute settlement panel or
18	the Appellate Body finds that the law of a
19	State is inconsistent with any of the Uru-
20	guay Round Agreements, the Trade Rep-
21	resentative shall consult with the State
22	concerned in an effort to develop a mutu-
23	ally agreeable response to the report of the
24	panel or the Appellate Body and shall
25	make every effort to ensure that the State

1	concerned is involved in the development of
2	the United States position regarding the
3	response.
4	(D) Notice to states regarding con-
5	SULTATIONS ON FOREIGN SUBCENTRAL GOV-
6	ERNMENT LAWS.—
7	(i) Subject to clause (ii), the Trade
8	Representative shall, at least 30 days be-
9	fore making a request for consultations
10	under Article 4 of the Dispute Settlement
11	Understanding regarding a subcentral gov-
12	ernment measure of another WTO mem-
13	ber, notify, and solicit the views of, appro-
14	priate representatives of each State regard-
15	ing the matter.
16	(ii) In exigent circumstances clause
17	(i) shall not apply, in which case the Trade
18	Representative shall notify the appropriate
19	representatives of each State not later than
20	3 days after making the request for con-
21	sultations referred to in clause (i).
22	(2) Legal challenge.—
23	(A) IN GENERAL.—No State law, or the
24	application of such a State law, may be de-
25	clared invalid as to any person or circumstance

1	on the ground that the provision or application
2	is inconsistent with any of the Uruguay Round
3	Agreements, except in an action brought by the
4	United States for the purpose of declaring such
5	law or application invalid.
6	(B) Procedures governing action.—In
7	any action described in subparagraph (A) that
8	is brought by the United States against a State
9	or any subdivision thereof—
10	(i) a report of a dispute settlement
11	panel or the Appellate Body convened
12	under the Dispute Settlement Understand-
13	ing regarding the State law, or the law of
14	any political subdivision thereof, shall not
15	be considered as binding or otherwise ac-
16	corded deference;
17	(ii) the United States shall have the
18	burden of proving that the law that is the
19	subject of the action, or the application of
20	that law, is inconsistent with the agree-
21	ment in question;
22	(iii) any State whose interests may be
23	impaired or impeded in the action shall
24	have the unconditional right to intervene in
25	the action as a party, and the United

1	States shall be entitled to amend its com-
2	plaint to include a claim or cross-claim
3	concerning the law of a State that so inter-
4	venes; and
5	(iv) any State law that is declared in-
6	valid shall not be deemed to have been in-
7	valid in its application during any period
8	before the court's judgment becomes final
9	and all timely appeals, including discre-
10	tionary review, of such judgment are ex-
11	hausted.
12	(C) Reports to congressional commit-
13	TEES.—At least 30 days before the United
14	States brings an action described in subpara-
15	graph (A), the Trade Representative shall pro-
16	vide a report to the Committee on Ways and
17	Means of the House of Representatives and the
18	Committee on Finance of the Senate—
19	(i) describing the proposed action;
20	(ii) describing efforts by the Trade
21	Representative to resolve the matter with
22	the State concerned by other means; and
23	(iii) if the State law was the subject
24	of consultations under the Dispute Settle-
25	ment Understanding, certifying that the

1	Trade Representative has substantially
2	complied with the requirements of para-
3	graph (1)(C) in connection with the mat-
4	ter.
5	Following the submission of the report, and before
6	the action is brought, the Trade Representative shall
7	consult with the committees referred to in the pre-
8	ceding sentence concerning the matter.
9	(3) Definition of State Law.—For purposes
10	of this subsection—
11	(A) the term "State law" includes—
12	(i) any law of a political subdivision of
13	a State; and
14	(ii) any State law regulating or taxing
15	the business of insurance; and
16	(B) the terms "dispute settlement panel"
17	and "Appellate Body" have the meanings given
18	those terms in section 121.
19	(c) Effect of Agreement With Respect to Pri-
20	VATE REMEDIES.—
21	(1) Limitations.—No person other than the
22	United States—
23	(A) shall have any cause of action or de-
24	fense under any of the Uruguay Round Agree-

1	ments or by virtue of congressional approval of
2	such an agreement, or
3	(B) may challenge, in any action brought
4	under any provision of law, any action or inac-
5	tion by any department, agency, or other in-
6	strumentality of the United States, any State
7	or any political subdivision of a State on the
8	ground that such action or inaction is inconsist-
9	ent with such agreement.
10	(2) Intent of congress.—It is the intention
11	of the Congress through paragraph (1) to occupy the
12	field with respect to any cause of action or defense
13	under or in connection with any of the Uruguay
14	Round Agreements, including by precluding any per-
15	son other than the United States from bringing any
16	action against any State or political subdivision
17	thereof or raising any defense to the application of
18	State law under or in connection with any of the
19	Uruguay Round Agreements—
20	(A) on the basis of a judgment obtained by
21	the United States in an action brought under
22	any such agreement; or
23	(B) on any other basis.
24	(d) STATEMENT OF ADMINISTRATIVE ACTION.—The
25	statement of administrative action approved by the Con-

- 1 gress under section 101(a) shall be regarded as an author-
- 2 itative expression by the United States concerning the in-
- 3 terpretation and application of the Uruguay Round Agree-
- 4 ments and this Act in any judicial proceeding in which
- 5 a question arises concerning such interpretation or appli-
- 6 cation.
- 7 SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF
- 8 ENTRY INTO FORCE; REGULATIONS.
- 9 (a) IMPLEMENTING ACTIONS.—After the date of the
- 10 enactment of this Act—
- 11 (1) the President may proclaim such actions,
- 12 and
- 13 (2) other appropriate officers of the United
- 14 States Government may issue such regulations,
- 15 as may be necessary to ensure that any provision of this
- 16 Act, or amendment made by this Act, that takes effect
- 17 on the date any of the Uruguay Round Agreements enters
- 18 into force with respect to the United States is appro-
- 19 priately implemented on such date. Such proclamation or
- 20 regulation may not have an effective date earlier than the
- 21 date of entry into force with respect to the United States
- 22 of the agreement to which the proclamation or regulation
- 23 relates.
- 24 (b) REGULATIONS.—Any interim regulation nec-
- 25 essary or appropriate to carry out any action proposed in

1	the statement of administrative action approved under sec-
2	tion 101(a) to implement an agreement described in sec-
3	tion 101(d) (7), (12), or (13) shall be issued not later than
4	1 year after the date on which the agreement enters into
5	force with respect to the United States.
6	Subtitle B—Tariff Modifications
7	SEC. 111. TARIFF MODIFICATIONS.
8	(a) IN GENERAL.—In addition to the authority pro-
9	vided by section 1102 of the Omnibus Trade and Competi-
10	tiveness Act of 1988 (19 U.S.C. 2902), the President shall
11	have the authority to proclaim—
12	(1) such other modification of any duty,
13	(2) such other staged rate reduction, or
14	(3) such additional duties,
15	as the President determines to be necessary or appropriate
16	to carry out Schedule XX.
17	(b) Other Tariff Modifications.—Subject to the
18	consultation and layover requirements of section 115, the
19	President may proclaim—
20	(1) the modification of any duty or staged rate
21	reduction of any duty set forth in Schedule XX if—
22	(A) the United States agrees to such modi-
23	fication or staged rate reduction in a multilat-
24	eral negotiation under the auspices of the
25	WTO, and

1	(B) such modification or staged rate reduc-
2	tion applies to the rate of duty on an article
3	contained in a tariff category that was the sub-
4	ject of reciprocal duty elimination or harmoni-
5	zation negotiations during the Uruguay Round
6	of multilateral trade negotiations, and
7	(2) such modifications as are necessary to cor-
8	rect technical errors in Schedule XX or to make
9	other rectifications to the Schedule.
10	(c) Authority To Increase Duties on Articles
11	From Certain Countries.—
12	(1) In general.—
13	(A) DETERMINATION WITH RESPECT TO
14	CERTAIN COUNTRIES.—Notwithstanding section
15	251 of the Trade Expansion Act of 1962 (19
16	U.S.C. 1881), after the entry into force of the
17	WTO Agreement with respect to the United
18	States, if the President—
19	(i) determines that a foreign country
20	(other than a foreign country that is a
21	WTO member country) is not according
22	adequate trade benefits to the United
23	States, including substantially equal com-
24	petitive opportunities for the commerce of
25	the United States, and

1	(ii) consults with the Committee on
2	Ways and Means of the House of Rep-
3	resentatives and the Committee on Finance
4	of the Senate,
5	the President may proclaim an increase in the
6	rate of duty with respect to any article of such
7	country in accordance with subparagraph (B).
8	(B) Rate of duty described.—The
9	President may proclaim a rate of duty on any
10	article of a country identified under subpara-
11	graph (A) that is equal to the greater of—
12	(i) the rate of duty set forth for such
13	article in the base rate of duty column of
14	Schedule XX, or
15	(ii) the rate of duty set forth for such
16	article in the bound rate of duty column of
17	Schedule XX.
18	(2) TERMINATION OF INCREASED DUTIES.—
19	The President shall terminate any increase in the
20	rate of duty proclaimed under this subsection by a
21	proclamation which shall be effective on the earlier
22	of—
23	(A) the date set out in such proclamation
24	of termination, or

1	(B) the date the WTO Agreement enters
2	into force with respect to the foreign country
3	with respect to which the determination under
4	paragraph (1) was made.
5	(3) Publication of determination and
6	TERMINATION.—The President shall publish in the
7	Federal Register notice of a determination made
8	under paragraph (1) and a termination occurring by
9	reason of paragraph (2).
10	(d) Adjustments to Certain Column 2 Rates of
11	DUTY.—At such time as the President proclaims any
12	modification to the HTS to implement the provisions of
13	Schedule XX, the President shall also proclaim the rate
14	of duty set forth in Column B as the column 2 rate of
15	duty for the subheading of the HTS that corresponds to
16	the subheading in Schedule XX listed in Column A.

Column A	Column B
Schedule XX subheading:	Rate of duty for column 2 of the HTS:
0201.10.50	31.1%
0201.20.80	31.1%
0201.30.80	31.1%
0202.10.50	31.1%
0202.20.80	31.1%
0202.30.80	31.1%
0401.30.25	90.8¢/liter
0401.30.75	\$1.936/kg
0402.10.50	\$1.018/kg
0402.21.25	\$1.018/kg
0402.21.50	\$1.285/kg
0402.21.90	\$1.831/kg
0402.29.50	\$1.299/kg + 17.5%
0402.91.60	36.8¢/kg
0402.99.50	58.4¢/kg
0402.99.90	54.5¢/kg + 17.5%

Column A Column B Schedule XX subheading: Rate of duty for column 2 of the HTS: 0403.10.50 1.217/kg + 20%0403.90.16 90.8¢/liter 0403.90.45 \$1.03/kg 0403.90.55 \$1.285/kg \$1.831/kg 0403.90.65 0403.90.78 \$1.936/kg 0403.90.95 1.217/kg + 20%20% 0404.10.11 1.217/kg + 10%0404.10.15 0404.10.90 \$1.03/kg 0404.90.30 25% 1.399/kg + 10%0404.90.50 \$1.813/kg 0405.00.40 2.194/kg + 10%0405.00.90 0406.10.08 \$1.775/kg 0406.10.18 \$2.67/kg \$1.443/kg 0406.10.28 0406.10.38 \$1.241/kg \$2.121/kg 0406.10.48 \$2.525/kg 0406.10.58 0406.10.68 \$1.631/kg 0406.10.78 \$1.328/kg \$1.775/kg 0406.10.88 0406.20.28 \$2.67/kg \$1.443/kg 0406.20.33 0406.20.39 \$1.241/kg \$2.121/kg 0406.20.48 \$2.525/kg 0406.20.53 0406.20.63 \$2.67/kg 0406.20.67 \$1.443/kg 0406.20.71 \$1.241/kg \$2.121/kg 0406.20.75 \$2.525/kg 0406.20.79 0406.20.83 \$1.631/kg 0406.20.87 \$1.328/kg 0406.20.91 \$1.775/kg 0406.30.18 \$2.67/kg 0406.30.28 \$1.443/kg \$1.241/kg 0406.30.38 0406.30.48 \$2.121/kg 0406.30.53 \$1.631/kg \$2.67/kg 0406.30.63 \$1.443/kg 0406.30.67 \$1.241/kg 0406.30.71 0406.30.75 \$2.121/kg 0406.30.79 \$2.525/kg \$1.631/kg 0406.30.83 0406.30.87 \$1.328/kg 0406.30.91 \$1.775/kg

0406.40.70

\$2.67/kg

0.400.00.10	01 440/1
	 \$1.443/kg
	 \$2.121/kg
0406.90.33	 \$2.525/kg
0406.90.38	 \$2.525/kg
0406.90.43	 \$2.525/kg
0406.90.48	 \$2.208/kg
0406.90.64	 \$1.241/kg
0406.90.68	 \$2.525/kg
0406.90.74	 \$2.67/kg
0406.90.78	 \$1.443/kg
0406.90.84	 \$1.241/kg
0406.90.88	 \$2.121/kg
0406.90.92	 \$1.631/kg
	 \$1.328/kg
	\$1.775/kg
	192.7%
	 155%
	 40.2¢/kg
	 39.85¢/kg
	 6.58170¢/kg less 0.0622005¢/
1701.12.10	 kg for each degree under 100
	degrees (and fractions of a de-
	gree in proportion) but not less
1701 10 50	than 5.031562¢/kg
	 42.05¢/kg
1701.91.10	 6.58170¢/kg less 0.0622005¢/
	kg for each degree under 100
	degrees (and fractions of a de-
	gree in proportion) but not less
	than 5.031562¢/kg
1701.91.30	 42.05¢/kg
1701.91.48	 39.9¢/kg + 6%
1701.91.58	 39.9¢/kg + 6%
1701.99.10	 6.58170¢/kg less 0.0622005¢/
	kg for each degree under 100
	degrees (and fractions of a de-
	gree in proportion) but not less
	than 5.031562¢/kg
1701.99.50	 42.05¢/kg
	 19.9¢/kg of total sugars + 6%
	19.9¢/kg of total sugars + 6%
	 39.9¢/kg of total sugars + 6%
	 39.9¢/kg of total sugars + 6%
	6.58170¢/kg of total sugars
	 42.05¢/kg
	 39.9¢/kg of total sugars + 6%
	 Title of total babais 1 0/0
0≈.00.00	39.9c/kg + 6%
1704 90 58	 39.9¢/kg + 6% 47.4¢/kg + 12.2%
	 47.4¢/kg + 12.2%
1704.90.68	 47.4¢/kg + 12.2% 47.4¢/kg + 12.2%
1704.90.68 1704.90.78	 47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 47.4¢/kg + 12.2%
1704.90.68 1704.90.78 1806.10.15	47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 25.5¢/kg
1704.90.68 1704.90.78 1806.10.15 1806.10.28	47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 25.5¢/kg 39.5¢/kg
1704.90.68 1704.90.78 1806.10.15 1806.10.28 1806.10.38	47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 47.4¢/kg + 12.2% 25.5¢/kg

1806.10.75	 39.5¢/kg
1806.20.26	 43.8¢/kg + 5%
1806.20.28	 62.1¢/kg + 5%
1806.20.36	 43.8¢/kg + 5%
	 62.1¢/kg + 5%
	 35.9¢/kg + 10 %
1806.20.77	 35.9¢/kg + 10 %
	 43.8¢/kg + 10 %
	 62.1¢/kg + 10 %
	 43.8¢/kg + 10 %
	 62.1¢/kg + 10 %
	 43.8¢/kg + 10 %
	 62.1¢/kg + 10 %
	 43.8¢/kg + 10 %
	 62.1¢/kg + 10 %
	 43.8¢/kg + 5%
	 62.1¢/kg + 5%
	 43.8¢/kg + 5%
	 62.1¢/kg + 5%
	 43.8¢/kg + 7%
	 62.1¢/kg + 7%
	 43.8¢/kg + 7%
	 62.1¢/kg + 7%
	 43.8¢/kg + 7%
	 62.1¢/kg + 7%
	 43.8¢/kg + 7%
	 62.1¢/kg + 7%
	 43.8c/kg + 7%
	 62.1 c/kg + 7%
	 43.8c/kg + 7%
	 62.1 c/kg + 7%
	 43.8¢/kg + 7%
	 62.1¢/kg + 7%
	 \$1.217/kg + 17.5%
1001.10.10	 \$1.217/kg + 17.5%
	 \$1.217/kg + 17.5%
	 \$1.217/kg + 17.5%
	 49.8¢/kg + 10%
	 \$1.328/kg
	 25%
	 \$1.217/kg + 16%
	 25%
	 \$1.217/kg + 16%
1901.90.54	 27.9¢/kg + 10%

1901.90.58	 27.9¢/kg + 10%
2008.11.15	 155%
2008.11.35	 155%
2008.11.60	 155%
2101.10.38	 35.9¢/kg + $10%$
2101.10.48	 35.9¢/kg + $10%$
2101.10.58	 35.9¢/kg + $10%$
2101.20.38	 35.9¢/kg + $10%$
2101.20.48	 35.9¢/kg + $10%$
2101.20.58	 35.9¢/kg + $10%$
	 35.9¢/kg + 7.5 %
2105.00.20	 59¢/kg + 20%
2105.00.40	 59¢/kg + 20%
2106.90.02	 \$1.014/kg
2106.90.04	 \$2.348/kg
2106.90.08	 \$2.348/kg
2106.90.11	 6.58170¢/kg of total sugars
2106.90.12	 42.05¢/kg
2106.90.34	 82.8¢/kg + $10%$
2106.90.38	 82.8¢/kg + 10 %
2106.90.44	 82.8¢/kg + 10%
2106.90.48	 82.8¢/kg + 10 %
2106.90.57	 33.9¢/kg + 10 %
2106.90.67	 33.9¢/kg + 10 %
2106.90.77	 33.9¢/kg + $10%$
2106.90.87	 33.9¢/kg + 10 %
2202.90.28	 27.6¢/liter + 17.5%
2309.90.28	 94.6¢/kg + 7.5 %
2309.90.48	 94.6¢/kg + 7.5%
	 85¢/kg
2401.10.90	 85¢/kg
2401.20.30	 \$1.21/kg
2401.20.45	 \$1.15/kg
2401.20.55	 \$1.15/kg
2801.30.20	 37%
2805.30.00	 31.3%
2805.40.00	 5.7%
	 4.9%
2818.10.20	 4.1%
2822.00.00	 1.7%
2827.39.20	 31.9%
2833.11.50	 3.6%
2833.27.00	 4.2%
2836.40.20	 4.8%
	 8.4%
	 5.1%
	 1.2%
	 0.4%
	 1.6%
	 88%
	 33.3%
	 46.3%
	 6.2%
	 48.3%
2001.12.00	 10.070

2909.11.00	4%
2912.11.00	12.1%
2916.15.10	35.2%
2916.19.30	24.4%
2923.20.20	33.4%
3213.90.00	48.6%
3307.10.20	81.7%
3307.49.00	73.2%
3403.11.20	0.4%
3403.19.10	0.4%
3506.10.10	30.4%
3603.00.30	8.3%
3603.00.90	0.3%
3604.10.00	12.5%
3606.90.30	56.7%
3706.10.30	7%
3807.00.00	0.2%
3823.90.33	26.3%
3904.61.00	34.1%
3916.90.10	40.6%
3920.51.50	48.2%
3920.59.80	51.7%
3926.90.65	8.4%
5201.00.18	36.9¢/kg
5201.00.28	36.9¢/kg
5201.00.38	36.9¢/kg
5201.00.80	36.9¢/kg
5202.99.30	9.2¢/kg
5203.00.30	36.9¢/kg
(e) Authority To Consoi	IDATE SUBHE
(6) 110111011111 10 0011001	LIDITE DODITE
Morrey Court of Dames	OF DUTTY FOR T

- 1 ADINGS
- AND MODIFY COLUMN 2 RATES OF DUTY FOR TARIFF
- SIMPLIFICATION PURPOSES.— 3
- (1) IN GENERAL.—Whenever the HTS column 4
- 1 general rates of duty for 2 or more 8-digit sub-5
- headings are at the same level and such subheadings 6
- 7 are subordinate to a provision required by the Inter-
- national Convention on the Harmonized Commodity 8
- Description and Coding System, the President may 9

1	proclaim, subject to the consultation and layover re-
2	quirements of section 115, that the goods described
3	in such subheadings be provided for in a single 8-
4	digit subheading of the HTS, and that—
5	(A) the HTS column 1 general rate of
6	duty for such single subheading be the column
7	1 general rate of duty common to all such sub-
8	headings, and
9	(B) the HTS column 2 rate of duty for
10	such single subheading be the highest column 2
11	rate of duty for such subheadings that is in ef-
12	fect on the day before the effective date of such
13	proclamation.
14	(2) Same level of duty.—The provisions of
15	this subsection apply to subheadings described in
16	paragraph (1) that have the same column 1 general
17	rate of duty—
18	(A) on the date of the enactment of this
19	Act, or
20	(B) after such date of enactment as a re-
21	sult of a staged reduction in such column 1
22	rates of duty.

1	SEC. 112. IMPLEMENTATION OF SCHEDULE XX PROVISIONS
2	ON SHIP REPAIRS.
3	(a) IN GENERAL.—Section 484E(b) of the Customs
4	and Trade Act of 1990 (19 U.S.C. 1466 note; 104 Stat.
5	710) is amended—
6	(1) by striking "and" at the end of paragraph
7	(1);
8	(2) by striking the period at the end of para-
9	graph (2) and inserting ", and"; and
10	(3) by adding at the end the following new
11	paragraph:
12	"(3) any entry made pursuant to section 466(h)
13	(1) or (2) of the Tariff Act of 1930 (19 U.S.C.
14	1466(h) (1) or (2)), on or after the date of the entry
15	into force of the WTO Agreement with respect to
16	the United States.".
17	(b) Exemption for Certain Spare Parts.—Sec-
18	tion 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h))
19	is amended—
20	(1) by striking "or" at the end of paragraph
21	(1);
22	(2) by striking the period at the end of para-
23	graph (2) and inserting ", or"; and
24	(3) by adding at the end the following new
25	paragraph:

1	"(3) the cost of spare parts necessarily installed
2	before the first entry into the United States, but
3	only if duty is paid under appropriate commodity
4	classifications of the Harmonized Tariff Schedule of
5	the United States upon first entry into the United
6	States of each such spare part purchased in, or im-
7	ported from, a foreign country.".
8	SEC. 113. LIQUIDATION OR RELIQUIDATION AND REFUND
9	OF DUTY PAID ON CERTAIN ENTRIES.
10	(a) Liquidation or Reliquidation.—Notwith-
11	standing section 514 of the Tariff Act of 1930 (19 U.S.C.
12	1514) or any other provision of law, and subject to sub-
13	section (b), the Secretary of the Treasury shall liquidate
14	or reliquidate the entries listed or otherwise described in
15	subsection (c) and refund any duty or excess duty that
16	was paid, as provided in subsection (c).
17	(b) REQUESTS.—Liquidation or reliquidation may be
18	made under subsection (a) with respect to an entry only
19	if a request therefor is filed with the Customs Service,
20	within 180 days after the date on which the WTO Agree-
21	ment enters into force with respect to the United States,
22	that contains sufficient information to enable the Customs
23	Service—

(1) to locate the entry; or

1	(2) to reconstruct the entry if it cannot be lo-
2	cated.
3	(c) Entries.—The entries referred to in subsection
4	(a) are as follows:
5	(1) AGGLOMERATED STONE TILES.—Any
6	goods—
7	(A) for which the importer claimed or
8	would have claimed entry under subheading
9	6810.19.12 of the HTS on or after October 1,
10	1990, and before the effective date of a procla-
11	mation issued by the President under section
12	103(a) of this Act with respect to items under
13	such subheading in order to carry out Schedule
14	XX, or
15	(B) entered on or after January 1, 1989,
16	and before October 1, 1990, for which entry
17	would have been claimed under subheading
18	6810.19.12 of the HTS on or after October 1,
19	1990,
20	shall be liquidated or reliquidated as if the wording
21	of that subheading were "Of stone agglomerated
22	with binders other than cement", and the Secretary
23	of the Treasury shall refund any excess duties paid
24	with respect to such entries.
25	(2) CLOMIPHENE CITRATE —

1	(A) Any entry, or withdrawal from ware-
2	house for consumption, of goods under heading
3	9902.29.95 of the HTS (relating to clomiphene
4	citrate) which was made after December 31,
5	1988, and before January 1, 1993, and with re-
6	spect to which there would have been no duty
7	if the reference to subheading "2922.19.15" in
8	such heading were a reference to subheading
9	"2922.19.15 or any subheading of chapter 30"
10	at the time of such entry or withdrawal, shall
11	be liquidated or reliquidated as free of duty.
12	(B) The Secretary of the Treasury shall
13	refund any duties paid with respect to entries
14	described in subparagraph (A).
15	SEC. 114. MODIFICATIONS TO THE HTS.
16	(a) Wool.—
17	(1) Amendments.—Chapter 51 of the HTS is
18	amended—
19	(A) by striking subheading 5101.21.60 and
20	inserting the following new superior text and
21	subheadings, with the superior text having the
22	same degree of indentation as the article de-
23	scription in subheading 5101.11.60:
"	Other:

5101.21.65	Unimproved wool; other wool,	i			
	not finer than 46s	Free		81.6¢/	
				kg+ 20%	
5101.21.70	Other	7.7¢/	Free (MX)	81.6¢/	
		kg+6.25%	0.8¢/kg+ 0.6%	kg+ 20%	
			(IL) 3¢/		
	į		kg+ 2.5% (CA)		":

(B) by striking subheading 5101.29.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5102.10.20:

"	5101.29.65	Other: Unimproved wool; other wool,				
	0101.20.00	not finer than 46s	Free		81.6¢/ kg+ 20%	
	5101.29.70	Other	7.7¢/ kg+6.25%	0.8¢/kg+0.6% (IL) 3¢/ kg+2.5% (CA) 6.1¢/kg+5% (MX)	81.6¢/ kg+ 20%	",

6 and

(C) by striking subheading 5101.30.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the superior text immediately preceding subheading 5102.10.20:

"	5101.30.65	Other: Unimproved wool; other wool,		<u> </u>		
		not finer than 46s	Free		81.6¢/ kg+ 20%	
	5101.30.70	Other	7.7¢/ kg+ 6.25%	Free (MX) 0.8¢/kg+0.6% (IL) 3¢/	81.6¢/ kg+ 20%	
				(IL) 3¢/ kg+2.5% (CA)		".

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX.

1	(b) Duty Free Treatment for Octadecyl
2	ISOCYANATE AND 5-CHLORO-2-(2,4-DICHLORO-
3	PHENOXY)PHENOL.—The President—
4	(1) shall proclaim duty-free entry for octadecyl
5	isocyanate and 5-Chloro-2-(2,4-dichloro-
6	phenoxy)phenol, to be effective on the effective date
7	of the proclamation issued by the President under
8	section 103(a) to carry out Schedule XX, and
9	(2) shall take such actions as are necessary to
10	reflect such tariff treatment in Schedule XX.
11	SEC. 115. CONSULTATION AND LAYOVER REQUIREMENTS
12	FOR, AND EFFECTIVE DATE OF, PROCLAIMED
13	ACTIONS.
14	If a provision of this Act provides that the implemen-
15	tation of an action by the President by proclamation is
16	subject to the consultation and layover requirements of
17	this section, such action may be proclaimed only if—
18	(1) the President has obtained advice regarding
19	the proposed action from—
20	(A) the appropriate advisory committees
21	established under section 135 of the Trade Act
22	of 1974 (19 U.S.C. 2155), and
23	(B) the International Trade Commission;
24	(2) the President has submitted a report to the
25	Committee on Ways and Means of the House of

1	Representatives and the Committee on Finance of
2	the Senate that sets forth—
3	(A) the action proposed to be proclaimed
4	and the reasons for such actions, and
5	(B) the advice obtained under paragraph
6	(1);
7	(3) a period of 60 calendar days, beginning
8	with the first day on which the President has met
9	the requirements of paragraphs (1) and (2) with re-
10	spect to such action, has expired; and
11	(4) the President has consulted with such com-
12	mittees regarding the proposed action during the pe-
13	riod referred to in paragraph (3).
14	SEC. 116. EFFECTIVE DATE.
15	(a) In General.—Except as provided in section
16	114(a) and subsection (b) of this section, this subtitle and
17	the amendments made by this subtitle take effect on the
18	date on which the WTO Agreement enters into force with
19	respect to the United States.
20	(b) Section 115.—Section 115 takes effect on the
21	date of the enactment of this Act.

1	Subtitle C—Uruguay Round Imple-
2	mentation and Dispute Settle-
3	ment
4	SEC. 121. DEFINITIONS.
5	For purposes of this subtitle:
6	(1) Administering authority.—The term
7	"administering authority" has the meaning given
8	that term in section 771(1) of the Tariff Act of
9	1930.
10	(2) Appellate body.—The term "Appellate
11	Body" means the Appellate Body established under
12	Article 17.1 of the Dispute Settlement Understand-
13	ing.
14	(3) Appropriate congressional commit-
15	TEES; CONGRESSIONAL COMMITTEES.—
16	(A) APPROPRIATE CONGRESSIONAL COM-
17	MITTEES.—The term "appropriate congres-
18	sional committees" means the committees re-
19	ferred to in subparagraph (B) and any other
20	committees of the Congress that have jurisdic-
21	tion involving the matter with respect to which
22	consultations are to be held.
23	(B) Congressional committees.—The
24	term "congressional committees" means the
25	Committee on Ways and Means of the House of

1	Representatives and the Committee on Finance
2	of the Senate.
3	(4) Dispute settlement panel; panel.—
4	The terms "dispute settlement panel" and "panel"
5	mean a panel established pursuant to Article 6 of
6	the Dispute Settlement Understanding.
7	(5) Dispute settlement body.—The term
8	"Dispute Settlement Body" means the Dispute Set-
9	tlement Body administering the rules and proce-
10	dures set forth in the Dispute Settlement Under-
11	standing.
12	(6) Dispute settlement understanding.—
13	The term "Dispute Settlement Understanding"
14	means the Understanding on Rules and Procedures
15	Governing the Settlement of Disputes referred to in
16	section 101(d)(16).
17	(7) GENERAL COUNCIL.—The term "General
18	Council" means the General Council established
19	under paragraph 2 of Article IV of the WTO Agree-
20	ment.
21	(8) Ministerial conference.—The term
22	"Ministerial Conference" means the Ministerial Con-
23	ference established under paragraph 1 of Article IV
24	of the WTO Agreement.

1	(9) OTHER TERMS.—The terms "Antidumping
2	Agreement", "Agreement on Subsidies and Counter-
3	vailing Measures'', and "Safeguards Agreement"
4	mean the agreements referred to in section
5	101(d)(7), (12), and (13), respectively.
6	SEC. 122. IMPLEMENTATION OF URUGUAY ROUND AGREE-
7	MENTS.
8	(a) Decisionmaking.—In the implementation of the
9	Uruguay Round Agreements and the functioning of the
10	World Trade Organization, it is the objective of the United
11	States to ensure that the Ministerial Conference and the
12	General Council continue the practice of decisionmaking
13	by consensus followed under the GATT 1947, as required
14	by paragraph 1 of article IX of the WTO Agreement.
15	(b) Consultations With Congressional Com-
16	MITTEES.—In furtherance of the objective set forth in
17	subsection (a), the Trade Representative shall consult with
18	the appropriate congressional committees before any vote
19	is taken by the Ministerial Conference or the General
20	Council relating to—
21	(1) the adoption of an interpretation of the
22	WTO Agreement or another multilateral trade
23	agreement,
24	(2) the amendment of any such agreement,

1	(3) the granting of a waiver of any obligation
2	under any such agreement,
3	(4) the adoption of any amendment to the rules
4	or procedures of the Ministerial Conference or the
5	General Council,
6	(5) the accession of a state or separate customs
7	territory to the WTO Agreement, or
8	(6) the adoption of any other decision,
9	if the action described in paragraph (1), (2), (3), (4), (5),
10	or (6) would substantially affect the rights or obligations
11	of the United States under the WTO Agreement or an-
12	other multilateral trade agreement or potentially entails
13	a change in Federal or State law.
14	(c) Report on Decisions.—
15	(1) IN GENERAL.—Not later than 30 days after
16	the end of any calendar year in which the Ministerial
17	Conference or the General Council adopts by vote
18	any decision to take any action described in para-
19	graph (1), (2), (4), or (6) of subsection (b), the
20	Trade Representative shall submit a report to the
21	appropriate congressional committees describing—
22	(A) the nature of the decision;
23	(B) the efforts made by the United States
24	to have the matter decided by consensus pursu-

1	ant to paragraph 1 of article IX of the WTO
2	Agreement, and the results of those efforts;
3	(C) which countries voted for, and which
4	countries voted against, the decision;
5	(D) the rights or obligations of the United
6	States affected by the decision and any Federal
7	or State law that would be amended or re-
8	pealed, if the President after consultation with
9	the Congress determined that such amendment
10	or repeal was an appropriate response; and
11	(E) the action the President intends to
12	take in response to the decision or, if the Presi-
13	dent does not intend to take any action, the
14	reasons therefor.
15	(2) Additional reporting requirements.—
16	(A) Grant of waiver.—In the case of a
17	decision to grant a waiver described in sub-
18	section (b)(3), the report under paragraph (1)
19	shall describe the terms and conditions of the
20	waiver and the rights and obligations of the
21	United States that are affected by the waiver.
22	(B) Accession.—In the case of a decision
23	on accession described in subsection (b)(5), the
24	report under paragraph (1) shall state whether

1	the United States intends to invoke Article XIII
2	of the WTO Agreement.
3	(d) Consultation on Report.—Promptly after the
4	submission of a report under subsection (c), the Trade
5	Representative shall consult with the appropriate congres-
6	sional committees with respect to the report.
7	SEC. 123. DISPUTE SETTLEMENT PANELS AND PROCE-
8	DURES.
9	(a) REVIEW BY PRESIDENT.—The President shall re-
10	view annually the WTO panel roster and shall include the
11	panel roster and the list of persons serving on the Appel-
12	late Body in the annual report submitted by the President
13	under section 163(a) of the Trade Act of 1974.
14	(b) Qualifications of Appointees to Panels.—
15	The Trade Representative shall—
16	(1) seek to ensure that persons appointed to the
17	WTO panel roster are well-qualified, and that the
18	roster includes persons with expertise in the subject
19	areas covered by the Uruguay Round Agreements;
20	and
21	(2) inform the President of persons nominated
22	to the roster by other WTO member countries.
23	(c) Rules Governing Conflicts of Interest.—
24	The Trade Representative shall seek the establishment by
25	the General Council and the Dispute Settlement Body of

- 1 rules governing conflicts of interest by persons serving on
- 2 panels and members of the Appellate Body and shall de-
- 3 scribe, in the annual report submitted under section 124,
- 4 any progress made in establishing such rules.
- 5 (d) NOTIFICATION OF DISPUTES.—Promptly after a
- 6 dispute settlement panel is established to consider the con-
- 7 sistency of Federal or State law with any of the Uruguay
- 8 Round Agreements, the Trade Representative shall notify
- 9 the appropriate congressional committees of—
- 10 (1) the nature of the dispute, including the
- matters set forth in the request for the establish-
- ment of the panel, the legal basis of the complaint,
- and the specific measures, in particular any State or
- 14 Federal law cited in the request for establishment of
- the panel;
- 16 (2) the identity of the persons serving on the
- panel; and
- 18 (3) whether there was any departure from the
- rule of consensus with respect to the selection of
- 20 persons to serve on the panel.
- 21 (e) Notice of Appeals of Panel Reports.—If an
- 22 appeal is taken of a report of a panel in a proceeding de-
- 23 scribed in subsection (d), the Trade Representative shall,
- 24 promptly after the notice of appeal is filed, notify the ap-
- 25 propriate congressional committees of—

1	(1) the issues under appeal; and
2	(2) the identity of the persons serving on the
3	Appellate Body who are reviewing the report of the
4	panel.
5	(f) Actions Upon Circulation of Reports.—
6	Promptly after the circulation of a report of a panel or
7	of the Appellate Body to WTO members in a proceeding
8	described in subsection (d), the Trade Representative
9	shall—
10	(1) notify the appropriate congressional com-
11	mittees of the report;
12	(2) in the case of a report of a panel, consult
13	with the appropriate congressional committees con-
14	cerning the nature of any appeal that may be taken
15	of the report; and
16	(3) if the report is adverse to the United
17	States, consult with the appropriate congressional
18	committees concerning whether to implement the re-
19	port's recommendation and, if so, the manner of
20	such implementation and the period of time needed
21	for such implementation.
22	(g) Requirements for Agency Action.—
23	(1) Changes in agency regulations or
24	PRACTICE.—In any case in which a dispute settle-
25	ment panel or the Appellate Body finds in its report

1	that a regulation or practice of a department or
2	agency of the United States is inconsistent with any
3	of the Uruguay Round Agreements, that regulation
4	or practice may not be amended, rescinded, or other-
5	wise modified in the implementation of such report
6	unless and until—
7	(A) the appropriate congressional commit-
8	tees have been consulted under subsection (f);
9	(B) the Trade Representative has sought
10	advice regarding the modification from relevant
11	private sector advisory committees established
12	under section 135 of the Trade Act of 1974 (19
13	U.S.C. 2155);
14	(C) the head of the relevant department or
15	agency has provided an opportunity for public
16	comment by publishing in the Federal Register
17	the proposed modification and the explanation
18	for the modification;
19	(D) the Trade Representative has submit-
20	ted to the appropriate congressional committees
21	a report describing the proposed modification,
22	the reasons for the modification, and a sum-
23	mary of the advice obtained under subpara-

graph (B) with respect to the modification;

1	(E) the Trade Representative and the head
2	of the relevant department or agency have con-
3	sulted with the appropriate congressional com-
1	mittees on the proposed contents of the final
5	rule or other modification; and

- (F) the final rule or other modification has been published in the Federal Register.
- (2) EFFECTIVE DATE OF MODIFICATION.—A final rule or other modification to which paragraph (1) applies may not go into effect before the end of the 60-day period beginning on the date on which consultations under paragraph (1)(E) begin, unless the President determines that an earlier effective date is in the national interest.
- (3) Vote by congressional committees.—
 During the 60-day period described in paragraph
 (2), the Committee on Ways and Means of the
 House of Representatives and the Committee on Finance of the Senate may vote to indicate the agreement or disagreement of the committee with the proposed contents of the final rule or other modification. Any such vote shall not be binding on the department or agency which is implementing the rule
 or other modification.

1	(4) Inapplicability to itc.—This subsection
2	does not apply to any regulation or practice of the
3	International Trade Commission.
4	(h) Consultations Regarding Review of WTO
5	RULES AND PROCEDURES.—Before the review is con-
6	ducted of the dispute settlement rules and procedures of
7	the WTO that is provided for in the Decision on the Appli-
8	cation of the Understanding on Rules and Procedures
9	Governing the Settlement of Disputes, as such decision is
10	set forth in the Ministerial Declarations and Decisions
11	adopted on April 15, 1994, together with the Uruguay
12	Round Agreements, the Trade Representative shall con-
13	sult with the congressional committees regarding the pol-
14	icy of the United States concerning the review.
15	SEC. 124. ANNUAL REPORT ON THE WTO.
16	Not later than March 1 of each year beginning in
17	1996, the Trade Representative shall submit to the Con-
18	gress a report describing, for the preceding fiscal year of
19	the WTO—
20	(1) the major activities and work programs of
21	the WTO, including the functions and activities of
22	the committees established under article IV of the
23	WTO Agreement, and the expenditures made by the
24	WTO in connection with those activities and pro-
25	grams;

1 (2) the percentage of budgetary assessments by
2 the WTO that were accounted for by each WTO
3 member country, including the United States;
4 (3) the total number of personnel employed or

- (3) the total number of personnel employed or retained by the Secretariat of the WTO, and the number of professional, administrative, and support staff of the WTO;
- (4) for each personnel category described in paragraph (3), the number of citizens of each country, and the average salary of the personnel, in that category;
- (5) each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law, and any efforts by the Trade Representative to provide for implementation of the recommendations contained in a report that is adverse to the United States;
- (6) each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue;
- (7) the status of consultations with any State whose law was the subject of a report adverse to the United States that was issued by a panel or the Appellate Body; and

1	(8) any progress achieved in increasing the
2	transparency of proceedings of the Ministerial Con-
3	ference and the General Council, and of dispute set-
4	tlement proceedings conducted pursuant to the Dis-
5	pute Settlement Understanding.
6	SEC. 125. REVIEW OF PARTICIPATION IN THE WTO.
7	(a) Report on the Operation of the WTO.—
8	The first annual report submitted to the Congress under
9	section 124—
10	(1) after the end of the 5-year period beginning
11	on the date on which the WTO Agreement enters
12	into force with respect to the United States, and
13	(2) after the end of every 5-year period there-
14	after,
15	shall include an analysis of the effects of the WTO Agree-
16	ment on the interests of the United States, the costs and
17	benefits to the United States of its participation in the
18	WTO, and the value of the continued participation of the
19	United States in the WTO.
20	(b) Congressional Disapproval of U.S. Partici-
21	PATION IN THE WTO.—
22	(1) GENERAL RULE.—The approval of the Con-
23	gress, provided under section 101(a), of the WTO
24	Agreement shall cease to be effective if, and only if,
25	a joint resolution described in subsection (c) is en-

- 1 acted into law pursuant to the provisions of paragraph (2). 2 (2) PROCEDURAL PROVISIONS.—(A) The re-3 4 quirements of this paragraph are met if the joint resolution is enacted under subsection (c), and 5 (i) the Congress adopts and transmits the 6 7 joint resolution to the President before the end of the 90-day period (excluding any day de-8 scribed in section 154(b) of the Trade Act of 9 1974), beginning on the date on which the Con-10 11 gress receives a report referred to in subsection 12 (a), and (ii) if the President vetoes the joint resolu-13 14 tion, each House of Congress votes to override 15 that veto on or before the later of the last day 16 of the 90-day period referred to in clause (i) or 17 the last day of the 15-day period (excluding any 18 day described in section 154(b) of the Trade 19 Act of 1974) beginning on the date on which 20 the Congress receives the veto message from the President. 21 22 (B) A joint resolution to which this section applies may be introduced at any time on or after the 23
 - date on which the President transmits to the Congress a report described in subsection (a), and be-

fore the end of the 90-day period referred to in subparagraph (A).

(c) Joint Resolutions.—

- (1) Joint Resolutions.—For purposes of this section, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act.".
- (2) PROCEDURES.—(A) Joint resolutions may be introduced in either House of the Congress by any member of such House.
- (B) Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to joint resolutions to the same extent as such provisions apply to resolutions under such section.
- (C) If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be auto-

matically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) It is not in order for—

- (i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or
- (ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).
- (E) A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.
- (3) Consideration of Second Resolution NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has

- 1 previously adopted a joint resolution under this sec-
- 2 tion.
- 3 (d) Rules of House of Representatives and
- 4 Senate.—This section is enacted by the Congress—
- 5 (1) as an exercise of the rulemaking power of
- 6 the House of Representatives and the Senate, re-
- 7 spectively, and as such is deemed a part of the rules
- 8 of each House, respectively, and such procedures su-
- 9 persede other rules only to the extent that they are
- inconsistent with such other rules; and
- 11 (2) with the full recognition of the constitu-
- tional right of either House to change the rules (so
- far as relating to the procedures of that House) at
- any time, in the same manner, and to the same ex-
- tent as any other rule of that House.

16 SEC. 126. INCREASED TRANSPARENCY.

- 17 The Trade Representative shall seek the adoption by
- 18 the Ministerial Conference and General Council of proce-
- 19 dures that will ensure broader application of the principle
- 20 of transparency and clarification of the costs and benefits
- 21 of trade policy actions, through the observance of open
- 22 and equitable procedures in trade matters by the Ministe-
- 23 rial Conference and the General Council, and by the dis-
- 24 pute settlement panels and the Appellate Body under the
- 25 Dispute Settlement Understanding.

1	SEC. 127. ACCESS TO THE WTO DISPUTE SETTLEMENT
2	PROCESS.
3	(a) In General.—Whenever the United States is a
4	party before a dispute settlement panel established pursu-
5	ant to Article 6 of the Dispute Settlement Understanding,
6	the Trade Representative shall, at each stage of the pro-
7	ceeding before the panel or the Appellate Body, consult
8	with the appropriate congressional committees, the peti-
9	tioner (if any) under section 302(a) of the Trade Act of
10	$1974\ (19\ U.S.C.\ 2412)$ with respect to the matter that
11	is the subject of the proceeding, and relevant private sec-
12	tor advisory committees established under section 135 of
13	the Trade Act of 1974 (19 U.S.C. 2155), and shall con-
14	sider the views of representatives of appropriate interested
15	private sector and nongovernmental organizations con-
16	cerning the matter.
17	(b) Notice and Public Comment.—In any pro-
18	ceeding described in subsection (a), the Trade Representa-
19	tive shall—
20	(1) promptly after requesting the establishment
21	of a panel, or receiving a request from another WTO
22	member country for the establishment of a panel,
23	publish a notice in the Federal Register—
24	(A) identifying the initial parties to the
25	dispute,

1	(B) setting forth the major issues raised
2	by the country requesting the establishment of
3	a panel and the legal basis of the complaint,
4	(C) identifying the specific measures, in-
5	cluding any State or Federal law cited in the
6	request for establishment of the panel, and
7	(D) seeking written comments from the
8	public concerning the issues raised in the dis-
9	pute; and
10	(2) take into account any advice received from
11	appropriate congressional committees and relevant
12	private sector advisory committees referred to in
13	subsection (a), and written comments received pur-
14	suant to paragraph (1)(D), in preparing United
15	States submissions to the panel or the Appellate
16	Body.
17	(c) Access to Documents.—In each proceeding de-
18	scribed in subsection (a), the Trade Representative shall—
19	(1) make written submissions by the United
20	States referred to in subsection (b) available to the
21	public promptly after they are submitted to the
22	panel or Appellate Body, except that the Trade Rep-
23	resentative is authorized to withhold from disclosure
24	any information contained in such submissions iden-
25	tified by the provider of the information as propri-

- etary information or information treated as con-1 2 fidential by a foreign government;
- 3 (2) request each other party to the dispute to permit the Trade Representative to make that par-5 ty's written submissions to the panel or the Appel-6 late Body available to the public; and
- 7 (3) make each report of the panel or the Appellate Body available to the public promptly after it is 8 circulated to WTO members, and inform the public 9 of such availability. 10
- 11 (d) REQUESTS Nonconfidential Sum-FOR MARIES.—In any dispute settlement proceeding conducted pursuant to the Dispute Settlement Understanding, the Trade Representative shall request each party to the dispute to provide nonconfidential summaries of its written submissions, if that party has not made its written submissions public, and shall make those summaries available to the public promptly after receiving them.
- 19 (e) Public File.—The Trade Representative shall maintain a file accessible to the public on each dispute settlement proceeding to which the United States is a 21 party that is conducted pursuant to the Dispute Settlement Understanding. The file shall include all United States submissions in the proceeding and a listing of any submissions to the Trade Representative from the public

- 1 with respect to the proceeding, as well as the report of
- 2 the dispute settlement panel and the report of the Appel-
- 3 late Body.
- 4 (f) CONFORMING AMENDMENT.—Section
- 5 135(a)(1)(B) of the Trade Act of 1974 (19 U.S.C.
- 6 2155(a)(1)(B)) is amended to read as follows:
- 7 "(B) the operation of any trade agreement
- 8 once entered into, including preparation for dis-
- 9 pute settlement panel proceedings to which the
- 10 United States is a party; and".
- 11 SEC. 128. ADVISORY COMMITTEE PARTICIPATION.
- 12 Section 135(b)(1) of the Trade Act of 1974 (19
- 13 U.S.C. 2155(b)(1)) is amended by inserting "nongovern-
- 14 mental environmental and conservation organizations,"
- 15 after "retailers,".
- 16 SEC. 129. ADMINISTRATIVE ACTION FOLLOWING WTO
- 17 PANEL REPORTS.
- 18 (a) ACTION BY UNITED STATES INTERNATIONAL
- 19 Trade Commission.—
- 20 (1) ADVISORY REPORT.—If a dispute settlement
- 21 panel finds in an interim report under Article 15 of
- the Dispute Settlement Understanding, or the Ap-
- pellate Body finds in a report under Article 17 of
- that Understanding, that an action by the Inter-
- 25 national Trade Commission in connection with a

1	particular proceeding is not in conformity with the
2	obligations of the United States under the Anti-
3	dumping Agreement, the Safeguards Agreement, or
4	the Agreement on Subsidies and Countervailing
5	Measures, the Trade Representative may request the
6	Commission to issue an advisory report on whether
7	title VII of the Tariff Act of 1930 or title II of the
8	Trade Act of 1974, as the case may be, permits the
9	Commission to take steps in connection with the
10	particular proceeding that would render its action
11	not inconsistent with the findings of the panel or the
12	Appellate Body concerning those obligations. The
13	Trade Representative shall notify the congressional
14	committees of such request.
15	(2) Time limits for report.—The Commis-
16	sion shall transmit its report under paragraph (1) to
17	the Trade Representative—
18	(A) in the case of an interim report de-
19	scribed in paragraph (1), within 30 calendar
20	days after the Trade Representative requests
21	the report; and
22	(B) in the case of a report of the Appellate
23	Body, within 21 calendar days after the Trade

Representative requests the report.

(3) Consultations on request for commission determination.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representative shall consult with the congressional committees concerning the matter.

- (4) Commission determination.—Notwithstanding any provision of the Tariff Act of 1930 or title II of the Trade Act of 1974, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel or Appellate Body. The Commission shall issue its determination not later than 120 days after the request from the Trade Representative is made.
 - (5) Consultations on implementation of Commission determination.—The Trade Representative shall consult with the congressional committees before the Commission's determination under paragraph (4) is implemented.

- (6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an antidumping or countervailing duty order with respect to some or all of the imports that are subject to the action of the Commission described in paragraph (1) is no longer supported by an affirmative Commission determination under title VII of the Tariff Act of 1930 or this subsection, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the antidumping or countervailing duty order in whole or in part.
 - (7) Modification of action under title II of trade act of 1974.—Section 204(b) of the Trade Act of 1974 (19 U.S.C. 2254(b)) is amended by adding at the end the following new paragraph:
 - "(3) Notwithstanding paragraph (1), the President may, after receipt of a Commission determination under section 129(a)(4) of the Uruguay Round Agreements Act and consulting with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, reduce, modify, or terminate action taken under section 203."
- (b) ACTION BY ADMINISTERING AUTHORITY.—

1 (1) Consultations with administering au-2 THORITY CONGRESSIONAL AND COMMITTEES.— 3 Promptly after a report by a dispute settlement panel or the Appellate body is issued that contains 5 findings that an action by the administering authority in a proceeding under title VII of the Tariff Act 6 7 of 1930 is not in conformity with the obligations of the United States under the Antidumping Agree-8 9 ment or the Agreement on Subsidies and Countervailing Measures, the Trade Representative shall 10 consult with the administering authority and the 12 congressional committees on the matter.

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- (2) DETERMINATION BY ADMINISTERING AU-THORITY.—Notwithstanding any provision of the Tariff Act of 1930, the administering authority shall, within 180 days after receipt of a written request from the Trade Representative, issue a determination in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel or the Appellate Body.
- CONSULTATIONS BEFORE IMPLEMENTA-TION.—Before the administering authority implements any determination under paragraph (2), the Trade Representative shall consult with the admin-

1	istering authority and the congressional committees
2	with respect to such determination.
3	(4) Implementation of determination.—
4	The Trade Representative may, after consulting with
5	the administering authority and the congressional
6	committees under paragraph (3), direct the admin-
7	istering authority to implement, in whole or in part,
8	the determination made under paragraph (2).
9	(c) Effects of Determinations; Notice of Im-
10	PLEMENTATION.—
11	(1) Effects of determinations.—Deter-
12	minations concerning title VII of the Tariff Act of
13	1930 that are implemented under this section shall
14	apply with respect to unliquidated entries of the sub-
15	ject merchandise (as defined in section 771 of that
16	Act) that are entered, or withdrawn from warehouse,
17	for consumption on or after—
18	(A) in the case of a determination by the
19	Commission under subsection (a)(4), the date
20	on which the Trade Representative directs the
21	administering authority under subsection (a)(6)
22	to revoke an order pursuant to that determina-
23	tion, and
24	(B) in the case of a determination by the
25	administering authority under subsection

(b)(2), the date on which the Trade Representative directs the administering authority under subsection (b)(4) to implement that determination.

(2) Notice of implementation.—

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- (A) The administering authority shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title VII of the Tariff Act of 1930.
- (B) The Trade Representative shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title II of the Trade Act of 1974.
- 16 (d) Opportunity for Comment by Interested Parties.—Prior to issuing a determination under this section, the administering authority or the Commission, as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.
 - (e) Judicial or Binational Panel Review.—

1	(1) REVIEW OF DETERMINATIONS ON
2	RECORD.—Section 516A(a)(2) of the Tariff Act of
3	1930 (19 U.S.C. 1516a(a)(2)) is amended—
4	(A) in subparagraph (A)(i)—
5	(i) in subclause (I) by striking "(B),
6	or" and inserting "(B)", and
7	(ii) by adding after subclause (II) the
8	following:
9	"(III) notice of the implementa-
10	tion of any determination described in
11	clause (vii) of subparagraph (B), or";
12	and
13	(B) in subparagraph (B), by adding at the
14	end the following new clause:
15	"(vii) A determination by the admin-
16	istering authority or the Commission under
17	section 129 of the Uruguay Round Agree-
18	ments Act concerning a determination
19	under title VII of the Tariff Act of 1930.".
20	(2) TIME LIMITS FOR CASES INVOLVING FREE
21	TRADE AREA COUNTRIES.—Section 516A(a)(5) of
22	the Tariff Act of 1930 (19 U.S.C. 1516a(a)(5)) is
23	amended by adding at the end the following new
24	subparagraph:

1	"(E) For a determination described in
2	clause (vii) of paragraph (2)(B), the 31st day
3	after the date on which notice of the implemen-
4	tation of the determination is published in the
5	Federal Register.".
6	(3) REVIEW OF CASES INVOLVING FREE TRADE
7	AREA COUNTRY MERCHANDISE.—Section
8	516A(g)(8)(A)(i) of the Tariff Act of 1930 (19
9	U.S.C. $1516a(g)(8)(A)(i)$ is amended by striking
10	"subparagraph (A) or (B)" and inserting "subpara-
11	graph (A), (B), or (E)".
12	SEC. 130. EFFECTIVE DATE.
13	This subtitle and the amendments made by this sub-
14	title take effect on the date on which the WTO Agreement
15	enters into force with respect to the United States.
16	Subtitle D—Related Provisions
17	SEC. 131. WORKING PARTY ON WORKER RIGHTS.
18	(a) IN GENERAL.—The President shall seek the es-
19	tablishment in the GATT 1947, and, upon entry into force
20	of the WTO Agreement with respect to the United States,
21	in the WTO, of a working party to examine the relation-
22	ship of internationally recognized worker rights, as defined
23	in section 502(a)(4) of the Trade Act of 1974, to the arti-

 $\,$ 24 cles, objectives, and related instruments of the $\,$ GATT $\,$

 $\,\,25\,\,$ 1947 and of the WTO, respectively.

1	(b) Objectives of Working Party.—The objec-
2	tives of the United States for the working party described
3	in subsection (a) are to—
4	(1) explore the linkage between international
5	trade and internationally recognized worker rights,
6	as defined in section 502(a)(4) of the Trade Act of
7	1974, taking into account differences in the level of
8	development among countries;
9	(2) examine the effects on international trade of
10	the systematic denial of such rights;
11	(3) consider ways to address such effects; and
12	(4) develop methods to coordinate the work pro-
13	gram of the working party with the International
14	Labor Organization.
15	(c) Report to Congress.—The President shall re-
16	port to the Congress, not later than 1 year after the date
17	of the enactment of this Act, on the progress made in es-
18	tablishing the working party under this section, and on
19	United States objectives with respect to the working par-
20	ty's work program.
21	SEC. 132. IMPLEMENTATION OF RULES OF ORIGIN WORK
22	PROGRAM.
23	If the President enters into an agreement developed
24	under the work program described in Article 9 of the
25	Agreement on Rules of Origin referred to in section

- 1 101(d)(10), the President may implement United States
- 2 obligations under such an agreement under United States
- 3 law only pursuant to authority granted to the President
- 4 for that purpose by law enacted after the effective date
- 5 of this title.
- 6 SEC. 133. MEMBERSHIP IN WTO OF BOYCOTTING COUN-
- 7 TRIES.
- 8 It is the sense of the Congress that the Trade Rep-
- 9 resentative should vigorously oppose the admission into
- 10 the World Trade Organization of any country which,
- 11 through its laws, regulations, official policies, or govern-
- 12 mental practices, fosters, imposes, complies with, furthers,
- 13 or supports any boycott described in section 8(a) of the
- 14 Export Administration Act of 1979 (50 U.S.C. App.
- 15 2407(a)) (as in effect on August 20, 1994), including re-
- 16 quiring or encouraging entities within that country to
- 17 refuse to do business with persons who do not comply with
- 18 requests to take any action prohibited under that section.
- 19 SEC. 134. AFRICA TRADE AND DEVELOPMENT POLICY.
- 20 (a) DEVELOPMENT OF POLICY.—The President
- 21 should develop and implement a comprehensive trade and
- 22 development policy for the countries of Africa.
- (b) REPORTS TO CONGRESS.—The President shall,
- 24 not later than 12 months after the date of the enactment
- 25 of this Act and annually thereafter for a period of 4 years,

- 1 submit to the Committee on Ways and Means and the
- 2 Committee on Foreign Affairs of the House of Representa-
- 3 tives, the Committee on Finance and the Committee on
- 4 Foreign Relations of the Senate, and other appropriate
- 5 committees of the Congress, a report on the steps taken
- 6 to carry out subsection (a).

7 SEC. 135. OBJECTIVES FOR EXTENDED NEGOTIATIONS.

- 8 (a) Trade in Financial Services.—The principal
- 9 negotiating objective of the United States in the extended
- 10 negotiations on financial services to be conducted under
- 11 the auspices of the WTO is to seek to secure commit-
- 12 ments, from a wide range of commercially important de-
- 13 veloped and developing countries, to reduce or eliminate
- 14 barriers to the supply of financial services, including bar-
- 15 riers that deny national treatment or market access by re-
- 16 stricting the establishment or operation of financial serv-
- 17 ices providers, as the condition for the United States—
- 18 (1) offering commitments to provide national
- treatment and market access in each of the financial
- services subsectors, and
- 21 (2) making such commitments on a most-fa-
- vored-nation basis.
- 23 (b) Trade in Basic Telecommunications Serv-
- 24 ICES.—The principal negotiating objective of the United
- 25 States in the extended negotiations on basic telecommuni-

cations services to be conducted under the auspices of the WTO is to obtain the opening on nondiscriminatory terms and conditions of foreign markets for basic telecommuni-3 4 cations services through facilities-based competition or through the resale of services on existing networks. 6 (c) Trade in Civil Aircraft.— (1) NEGOTIATIONS.—The principal negotiating 7 objectives of the United States in the extended nego-8 tiations on trade in civil aircraft to be conducted 9 under the auspices of the WTO are— 10 11 (A) to obtain competitive opportunities for 12 United States exports in foreign markets substantially equivalent to those afforded to foreign 13 products in the United States, 14 15 (B) to obtain the reduction or elimination of specific tariff and nontariff barriers, includ-16 17 ing through expanded membership in the 18 Agreement on Trade in Civil Aircraft and in the 19 US-EC bilateral agreement for large civil air-20 craft. (C) to maintain vigorous and effective dis-21 22 ciplines on subsidies practices with respect to civil aircraft products under the Agreement on 23 Subsidies and Countervailing Measures referred 24 25 to in section 101(d)(12),

1	(D) to maintain the scope and coverage on
2	indirect support as specified in the US-EC bi-
3	lateral agreement on large civil aircraft, and
4	(E) to obtain increased transparency with
5	respect to foreign subsidy programs in the civil
6	aircraft sector, both through greater govern-
7	ment disclosure with respect to the use of tax-
8	payer moneys and higher financial disclosure
9	standards for companies receiving government
10	supports (including disclosure comparable to
11	that required under United States securities
12	laws).
13	(2) Definitions.—For purposes of paragraph
14	(1)—
15	(A) the term "civil aircraft" means those
16	products to which the Agreement on Trade in
17	Civil Aircraft applies,
18	(B) the term "large civil aircraft" has the
19	meaning given that term in Annex II to the
20	US-EC bilateral agreement,
21	(C) the term "indirect support" means in-
22	direct government support as defined in Annex
23	II to the US-EC bilateral agreement,
24	(D) the term "Agreement on Trade in
25	Civil Aircraft" means the Agreement on Trade

1	in Civil Aircraft approved by the Congress
2	under section 2 of the Trade Agreements Act of
3	1979, and
4	(E) the term "US–EC bilateral agree-
5	ment" means the Agreement Concerning the
6	Application of the GATT Agreement on Trade
7	in Civil Aircraft Between the European Eco-
8	nomic Community and the Government of the
9	United States of America on trade in large civil
10	aircraft, entered into on July 17, 1992.
11	SEC. 136. REPEAL OF TAX ON IMPORTED PERFUMES; DRAW-
12	BACK OF TAX ON DISTILLED SPIRITS USED IN
13	PERFUME MANUFACTURE.
14	(a) Repeal of Tax on Imported Perfumes.—
15	Subsection (a) of section 5001 of the Internal Revenue
16	Code of 1986 is amended by striking paragraph (3) and
17	redesignating the following paragraphs accordingly.
18	(b) Drawback of Tax on Distilled Spirits
19	USED IN PERFUME MANUFACTURE.—Sections 5131(a),
20	5132, 5134(c)(1), and 7652(g) of such Code are each
2021	5132, 5134(c)(1), and 7652(g) of such Code are each amended by striking "or flavoring extracts" and inserting
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1	(1) Subsection (b) of section 5002 of such Code
2	is amended by striking paragraph (1) and redesig-
3	nating the following paragraphs accordingly.
4	(2) Subsection (f) of section 5005 of such Code
5	is amended—
6	(A) by striking "section 5001(a)(6) and
7	(7)" in paragraph (3) and inserting "section
8	5001(a)(5) and (6)", and
9	(B) by striking "section 5001(a)(5)" in
10	paragraph (4) and inserting "section
11	5001(a)(4)".
12	(3) Subsection (b) of section 5007 of such Code
13	is amended to read as follows:
14	"(b) Collection of Tax on Imported Distilled
15	Spirits.—The internal revenue tax imposed by section
16	5001(a)(1) and (2) upon imported distilled spirits shall
17	be collected by the Secretary and deposited as internal rev-
18	enue collections, under such regulations as the Secretary
19	may prescribe. Section 5688 shall be applicable to the dis-
20	position of imported spirits.".
21	(4) Paragraph (3) of section 5007(c) of such
22	Code is amended by striking "section 5001(a)(5),
23	(6), and (7)" and inserting "section 5001(a)(4), (5),
24	and (6)"

1	(5) Paragraph (1) of section 5061(b) of such
2	Code is amended to read as follows:
3	"(1) section 5001(a)(4), (5), or (6),".
4	(d) EFFECTIVE DATE.—The amendments made by
5	this section shall take effect on January 1, 1995.
6	SEC. 137. CERTAIN NONRUBBER FOOTWEAR.
7	In the case of nonrubber footwear imported from
8	Brazil—
9	(1) which is subject to Treasury Decision 74-
10	233, dated September 9, 1974,
11	(2) which was entered, or withdrawn from
12	warehouse for consumption, on or before October 28,
13	1981, and
14	(3) with respect to which entries are unliqui-
15	dated on the date of the enactment of this Act,
16	countervailing duties shall be assessed at rates equal to
17	the amount of the cash deposit of the estimated counter-
18	vailing duties required on such footwear at the time of
19	entry or withdrawal from warehouse for consumption. In-
20	terest on underpayments of amounts required to be depos-
21	ited as countervailing duties shall be paid in accordance
22	with section 778 of the Tariff Act of 1930 (19 U.S.C.
23	1677g).

SEC. 138. EFFECTIVE DATE.

- 2 (a) IN GENERAL.—Except as provided in section
- 3 136(d) and subsection (b) of this section, this subtitle and
- 4 the amendments made by this subtitle take effect on the
- 5 date of the enactment of this Act.
- 6 (b) Sections 132 and 135.—Sections 132 and 135
- 7 take effect on the date on which the WTO Agreement en-
- 8 ters into force with respect to the United States.

9 TITLE II—ANTIDUMPING AND

10 **COUNTERVAILING DUTY PRO-**

11 VISIONS

- 12 SEC. 201. REFERENCE.
- Except as otherwise expressly provided, whenever in
- 14 this title an amendment or repeal is expressed in terms
- 15 of an amendment to, or repeal of, a section or other provi-
- 16 sion, the reference shall be considered to be made to a
- 17 section or other provision of the Tariff Act of 1930.

18 Subtitle A—General Provisions

- 19 SEC. 211. ACTION WITH RESPECT TO PETITIONS.
- 20 (a) Countervailing Duty Investigations.—Sec-
- 21 tion 702(b) (19 U.S.C. 1671a(b)) is amended—
- 22 (1) in paragraph (3) by striking "subsection
- 702(b)(1)" and inserting "paragraph (1)", and
- 24 (2) by adding at the end the following:
- 25 "(4) ACTION WITH RESPECT TO PETITIONS.—

1	"(A) Notification of governments.—
2	Upon receipt of a petition filed under para-
3	graph (1), the administering authority shall—
4	"(i) notify the government of any ex-
5	porting country named in the petition by
6	delivering a public version of the petition
7	to an appropriate representative of such
8	country; and
9	"(ii) provide the government of any
10	exporting country named in the petition
11	that is a Subsidies Agreement country an
12	opportunity for consultations with respect
13	to the petition.
14	"(B) ACCEPTANCE OF COMMUNICA-
15	TIONS.—The administering authority shall not
16	accept any unsolicited oral or written commu-
17	nication from any person other than an inter-
18	ested party described in section 771(9) (C),
19	(D), (E), (F), or (G) before the administering
20	authority makes its decision whether to initiate
21	an investigation, except as provided in subpara-
22	graph (A)(ii) and subsection (c)(4)(D), and ex-
23	cept for inquiries regarding the status of the
24	administering authority's consideration of the
25	petition.

1	"(C) Nondisclosure of certain infor-
2	MATION.—The administering authority and the
3	Commission shall not disclose information with
4	regard to any draft petition submitted for re-
5	view and comment before it is filed under para-
6	graph (1).''.
7	(b) Antidumping Investigations.—Section 732(b)
8	(19 U.S.C. 1673a(b)) is amended by adding at the end
9	the following:
10	"(3) ACTION WITH RESPECT TO PETITIONS.—
11	"(A) Notification of governments.—
12	Upon receipt of a petition filed under para-
13	graph (1), the administering authority shall no-
14	tify the government of any exporting country
15	named in the petition by delivering a public ver-
16	sion of the petition to an appropriate represent-
17	ative of such country.
18	"(B) ACCEPTANCE OF COMMUNICA-
19	TIONS.—The administering authority shall not
20	accept any unsolicited oral or written commu-
21	nication from any person other than an inter-
22	ested party described in section 771(9) (C),
23	(D), (E), (F), or (G) before the administering
24	authority makes its decision whether to initiate
25	an investigation except as provided in sub-

1	section (c)(4)(D), and except for inquiries re-
2	garding the status of the administering
3	authority's consideration of the petition.
4	"(C) Nondisclosure of certain infor-
5	MATION.—The administering authority and the
6	Commission shall not disclose information with
7	regard to any draft petition submitted for re-
8	view and comment before it is filed under para-
9	graph (1).".
10	SEC. 212. PETITION AND PRELIMINARY DETERMINATION.
11	(a) General Requirements.—
12	(1) Countervailing duty petition.—Section
13	702(c) (19 U.S.C. 1671a(c)) is amended to read as
14	follows:
15	"(c) Petition Determination.—
16	"(1) In general.—
17	"(A) Time for initial determina-
18	TION.—Except as provided in subparagraph
19	(B), within 20 days after the date on which a
20	petition is filed under subsection (b), the ad-
21	ministering authority shall—
22	"(i) after examining, on the basis of
23	sources readily available to the administer-
24	ing authority, the accuracy and adequacy
25	of the evidence provided in the petition, de-

1	termine whether the petition alleges the
2	elements necessary for the imposition of a
3	duty under section 701(a) and contains in-
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	formation reasonably available to the peti-
5	tioner supporting the allegations, and
6	"(ii) determine if the petition has
7	been filed by or on behalf of the industry.
8	"(B) Extension of time.—In any case
9	in which the administering authority is required
10	to poll or otherwise determine support for the
11	petition by the industry under paragraph
12	(4)(D), the administering authority may, in ex-
13	ceptional circumstances, apply subparagraph
14	(A) by substituting 'a maximum of 40 days' for
15	'20 days'.
16	"(C) TIME LIMITS WHERE PETITION IN-
17	VOLVES SAME MERCHANDISE AS AN ORDER
18	THAT HAS BEEN REVOKED.—If a petition is
19	filed under this section with respect to mer-
20	chandise that was the subject merchandise of—
21	''(i) a countervailing duty order that
22	was revoked under section 751(d) in the
23	24 months preceding the date the petition
24	is filed, or

1	''(ii) a suspended investigation that
2	was terminated under section 751(d) in the
3	24 months preceding the date the petition
4	is filed,
5	the administering authority and the Commis-
6	sion shall, to the maximum extent practicable,
7	expedite any investigation initiated under this
8	section with respect to the petition.
9	"(2) Affirmative determinations.—If the
10	determinations under clauses (i) and (ii) of para-
11	graph (1)(A) are affirmative, the administering au-
12	thority shall initiate an investigation to determine
13	whether a countervailable subsidy is being provided
14	with respect to the subject merchandise.
15	"(3) Negative determinations.—If the de-
16	termination under clause (i) or (ii) of paragraph
17	(1)(A) is negative, the administering authority shall
18	dismiss the petition, terminate the proceeding, and
19	notify the petitioner in writing of the reasons for the
20	determination.
21	"(4) Determination of industry sup-
22	PORT.—
23	"(A) General rule.—For purposes of
24	this subsection, the administering authority

1	shall determine that the petition has been filed
2	by or on behalf of the industry, if—
3	"(i) the domestic producers or work-
4	ers who support the petition account for at
5	least 25 percent of the total production of
6	the domestic like product, and
7	"(ii) the domestic producers or work-
8	ers who support the petition account for
9	more than 50 percent of the production of
10	the domestic like product produced by that
11	portion of the industry expressing support
12	for or opposition to the petition.
13	"(B) CERTAIN POSITIONS DIS-
14	REGARDED.—
15	"(i) Producers related to for-
16	EIGN PRODUCERS.—In determining indus-
17	try support under subparagraph (A), the
18	administering authority shall disregard the
19	position of domestic producers who oppose
20	the petition, if such producers are related
21	to foreign producers, as defined in section
22	771(4)(B)(ii), unless such domestic pro-
23	ducers demonstrate that their interests as
24	domestic producers would be adversely af-

1	fected by the imposition of a countervailing
2	duty order.
3	"(ii) Producers who are import-
4	ERS.—The administering authority may
5	disregard the position of domestic produc-
6	ers of a domestic like product who are im-
7	porters of the subject merchandise.
8	"(C) Special rule for regional indus-
9	TRIES.—If the petition alleges that the industry
10	is a regional industry, the administering author-
11	ity shall determine whether the petition has
12	been filed by or on behalf of the industry by ap-
13	plying subparagraph (A) on the basis of produc-
14	tion in the region.
15	"(D) Polling the industry.—If the pe-
16	tition does not establish support of domestic
17	producers or workers accounting for more than
18	50 percent of the total production of the domes-
19	tic like product, the administering authority
20	shall—
21	"(i) poll the industry or rely on other
22	information in order to determine if there
23	is support for the petition as required by
24	subparagraph (A), or

1	"(ii) if there is a large number of pro-
2	ducers in the industry, the administering
3	authority may determine industry support
4	for the petition by using any statistically
5	valid sampling method to poll the industry.
6	"(E) Comments by interested par-
7	TIES.—Before the administering authority
8	makes a determination with respect to initiating
9	an investigation, any person who would qualify
10	as an interested party under section 771(9) if
11	an investigation were initiated, may submit
12	comments or information on the issue of indus-
13	try support. After the administering authority
14	makes a determination with respect to initiating
15	an investigation, the determination regarding
16	industry support shall not be reconsidered.
17	"(5) Definition of domestic producers or
18	WORKERS.—For purposes of this subsection, the
19	term 'domestic producers or workers' means those
20	interested parties who are eligible to file a petition
21	under subsection (b)(1)(A).".
22	(2) Antidumping duty petition.—Section
23	732(c) (19 U.S.C. 1673a(c)) is amended to read as
24	follows:
25	"(c) Petition Determination.—

1	"(1) In general.—
2	"(A) Time for initial determina-
3	TION.—Except as provided in subparagraph
4	(B), within 20 days after the date on which a
5	petition is filed under subsection (b), the ad-
6	ministering authority shall—
7	"(i) after examining, on the basis of
8	sources readily available to the administer-
9	ing authority, the accuracy and adequacy
10	of the evidence provided in the petition, de-
11	termine whether the petition alleges the
12	elements necessary for the imposition of a
13	duty under section 731 and contains infor-
14	mation reasonably available to the peti-
15	tioner supporting the allegations, and
16	"(ii) determine if the petition has
17	been filed by or on behalf of the industry.
18	"(B) Extension of time.—In any case
19	in which the administering authority is required
20	to poll or otherwise determine support for the
21	petition by the industry under paragraph
22	(4)(D), the administering authority may, in ex-
23	ceptional circumstances, apply subparagraph
24	(A) by substituting 'a maximum of 40 days' for
25	'20 days'.

1	"(C) Time limits where petition in-
2	VOLVES SAME MERCHANDISE AS AN ORDER
3	THAT HAS BEEN REVOKED.—If a petition is
4	filed under this section with respect to mer-
5	chandise that was the subject merchandise of—
6	"(i) an antidumping duty order or
7	finding that was revoked under section
8	751(d) in the 24 months preceding the
9	date the petition is filed, or
10	"(ii) a suspended investigation that
11	was terminated under section 751(d) in the
12	24 months preceding the date the petition
13	is filed,
14	the administering authority and the Commis-
15	sion shall, to the maximum extent practicable,
16	expedite any investigation initiated under this
17	section with respect to the petition.
18	"(2) Affirmative determinations.—If the
19	determinations under clauses (i) and (ii) of para-
20	graph (1)(A) are affirmative, the administering au-
21	thority shall initiate an investigation to determine
22	whether the subject merchandise is being, or is likely
23	to be, sold in the United States at less than its fair
24	value.

1	"(3) Negative Determinations.—If the de-
2	termination under clause (i) or (ii) of paragraph
3	(1)(A) is negative, the administering authority shall
4	dismiss the petition, terminate the proceeding, and
5	notify the petitioner in writing of the reasons for the
6	determination.
7	"(4) Determination of industry sup-
8	PORT.—
9	"(A) General rule.—For purposes of
10	this subsection, the administering authority
11	shall determine that the petition has been filed
12	by or on behalf of the industry, if—
13	"(i) the domestic producers or work-
14	ers who support the petition account for at
15	least 25 percent of the total production of
16	the domestic like product, and
17	"(ii) the domestic producers or work-
18	ers who support the petition account for
19	more than 50 percent of the production of
20	the domestic like product produced by that
21	portion of the industry expressing support
22	for or opposition to the petition.
23	"(B) CERTAIN POSITIONS DIS-
24	REGARDED.—

1	"(i) Producers related to for-
2	EIGN PRODUCERS.—In determining indus-
3	try support under subparagraph (A), the
4	administering authority shall disregard the
5	position of domestic producers who oppose
6	the petition, if such producers are related
7	to foreign producers, as defined in section
8	771(4)(B)(ii), unless such domestic pro-
9	ducers demonstrate that their interests as
10	domestic producers would be adversely af-
11	fected by the imposition of an antidumping
12	duty order.
13	"(ii) Producers who are import-
14	ERS.—The administering authority may
15	disregard the position of domestic produc-
16	ers of a domestic like product who are im-
17	porters of the subject merchandise.
18	"(C) Special rule for regional indus-
19	TRIES.—If the petition alleges the industry is a
20	regional industry, the administering authority
21	shall determine whether the petition has been
22	filed by or on behalf of the industry by applying
23	subparagraph (A) on the basis of production in

the region.

1	"(D) Polling the industry.—If the pe-
2	tition does not establish support of domestic
3	producers or workers accounting for more than
4	50 percent of the total production of the domes-
5	tic like product, the administering authority
6	shall—
7	"(i) poll the industry or rely on other
8	information in order to determine if there
9	is support for the petition as required by
10	subparagraph (A), or
11	"(ii) if there is a large number of pro-
12	ducers in the industry, the administering
13	authority may determine industry support
14	for the petition by using any statistically
15	valid sampling method to poll the industry.
16	"(E) COMMENTS BY INTERESTED PAR-
17	TIES.—Before the administering authority
18	makes a determination with respect to initiating
19	an investigation, any person who would qualify
20	as an interested party under section 771(9) if
21	an investigation were initiated, may submit
22	comments or information on the issue of indus-
23	try support. After the administering authority
24	makes a determination with respect to initiating

1	an investigation, the determination regarding
2	industry support shall not be reconsidered.
3	"(5) Definition of domestic producers of
4	WORKERS.—For purposes of this subsection, the
5	term 'domestic producers or workers' means those
6	interested parties who are eligible to file a petition
7	under subsection (b)(1)(A).".
8	(b) DETERMINATION BY THE COMMISSION OF REA-
9	SONABLE INDICATION OF INJURY; PRELIMINARY DETER-
10	MINATION BY THE ADMINISTERING AUTHORITY.—
11	(1) Countervailing duty investigations.—
12	(A) Section 703(a) (19 U.S.C. 1671b(a))
13	is amended to read as follows:
14	"(a) Determination by Commission of Reason-
15	able Indication of Injury.—
16	"(1) GENERAL RULE.—Except in the case of a
17	petition dismissed by the administering authority
18	under section $702(c)(3)$, the Commission, within the
19	time specified in paragraph (2), shall determine
20	based on the information available to it at the time
21	of the determination, whether there is a reasonable
22	indication that—
23	"(A) an industry in the United States—
24	''(i) is materially injured, or

1	"(ii) is threatened with material in-
2	jury, or
3	"(B) the establishment of an industry in
4	the United States is materially retarded,
5	by reason of imports of the subject merchandise and
6	that imports of the subject merchandise are not neg-
7	ligible. If the Commission finds that imports of the
8	subject merchandise are negligible or otherwise
9	makes a negative determination under this para-
10	graph, the investigation shall be terminated.
11	"(2) Time for commission determina-
12	TION.—The Commission shall make the determina-
13	tion described in paragraph (1)—
14	"(A) in the case of a petition filed under
15	section 702(b)—
16	"(i) within 45 days after the date on
17	which the petition is filed, or
18	"(ii) if the time has been extended
19	pursuant to section $702(c)(1)(B)$, within
20	25 days after the date on which the Com-
21	mission receives notice from the admin-
22	istering authority of initiation of the inves-
23	tigation, and
24	"(B) in the case of an investigation initi-
25	ated under section 702(a), within 45 days after

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1	the date on which the Commission receives no-
2	tice from the administering authority that an
3	investigation has been initiated under such sec-
4	tion.''.
5	(B) Section 705(b)(1) (19 U.S.C.
6	1671d(b)(1)) is amended by adding at the end
7	the following: "If the Commission determines
8	that imports of the subject merchandise are
9	negligible, the investigation shall be termi-
10	nated.".
11	(C) Section 703(b) (19 U.S.C. 1671b(b))
12	is amended—
13	(i) in paragraph (1)—
14	(I) by striking "85 days after the
15	date on which the petition is filed
16	under section 702(b)" and inserting
17	"65 days after the date on which the
18	administering authority initiates an
19	investigation under section 702(c)";
20	(II) by striking "best informa-
21	tion" and inserting "information";
22	and
23	(III) by striking the last sen-
24	tence; and

1	(ii) in paragraph (2), by striking "85
2	days after the date on which the petition
3	is filed under section 702(b)" and inserting
4	"65 days after the date on which the ad-
5	ministering authority initiates an investiga-
6	tion under section 702(c)".
7	(D) Section 703(c)(1) (19 U.S.C.
8	1671b(c)) is amended by striking "150th day
9	after the date on which a petition is filed under
10	section 702(b)" and inserting "130th day after
11	the date on which the administering authority
12	initiates an investigation under section 702(c)".
13	(E) Section 702(b)(3) (19 U.S.C.
14	1671a(b)(3)) is amended by striking "twenty
15	days" and inserting "5 days after the date or
16	which the administering authority initiates an
17	investigation under subsection (c),".
18	(F) Section 703(f) (19 U.S.C. 1671b(f)) is
19	amended to read as follows:
20	"(f) Notice of Determination.—Whenever the
21	Commission or the administering authority makes a deter-
22	mination under this section, the Commission or the admin-
23	istering authority, as the case may be, shall notify the pe-
24	titioner, and other parties to the investigation, and the
25	Commission or the administering authority (whichever is

1	appropriate) of its determination. The administering au-
2	thority shall include with such notification the facts and
3	conclusions on which its determination is based. Not later
4	than 5 days after the date on which the determination is
5	required to be made under subsection (a)(2), the Commis-
6	sion shall transmit to the administering authority the facts
7	and conclusions on which its determination is based.".
8	(2) Antidumping duty investigations.—
9	(A) Section 733(a) (19 U.S.C. 1673b(a))
10	is amended to read as follows:
11	"(a) Determination by Commission of Reason-
12	ABLE INDICATION OF INJURY.—
13	"(1) GENERAL RULE.—Except in the case of a
14	petition dismissed by the administering authority
15	under section 732(c)(3), the Commission, within the
16	time specified in paragraph (2), shall determine,
17	based on the information available to it at the time
18	of the determination, whether there is a reasonable
19	indication that—
20	"(A) an industry in the United States—
21	"(i) is materially injured, or
22	"(ii) is threatened with material in-
23	jury, or
24	"(B) the establishment of an industry in
25	the United States is materially retarded,

1	by reason of imports of the subject merchandise and
2	that imports of the subject merchandise are not neg-
3	ligible. If the Commission finds that imports of the
4	subject merchandise are negligible or otherwise
5	makes a negative determination under this para-
6	graph, the investigation shall be terminated.
7	"(2) Time for commission determina-
8	TION.—The Commission shall make the determina-
9	tion described in paragraph (1)—
10	"(A) in the case of a petition filed under
11	section 732(b)—
12	"(i) within 45 days after the date on
13	which the petition is filed, or
14	"(ii) if the time has been extended
15	pursuant to section $732(c)(1)(B)$, within
16	25 days after the date on which the Com-
17	mission receives notice from the admin-
18	istering authority of initiation of the inves-
19	tigation, and
20	"(B) in the case of an investigation initi-
21	ated under section 732(a), within 45 days after
22	the date on which the Commission receives no-
23	tice from the administering authority that an
24	investigation has been initiated under such sec-
25	tion.".

1	(B) Section 735(b)(1) (19 U.S.C.
2	1673d(b)(1)) is amended by adding at the end
3	the following: "If the Commission determines
4	that imports of the subject merchandise are
5	negligible, the investigation shall be termi-
6	nated.".
7	(C) Section 733(b)(1) (19 U.S.C.
8	1673b(b)(1)) is amended—
9	(i) in subparagraph (A)—
10	(I) by striking "160 days after
11	the date on which a petition is filed
12	under section 732(b)" and inserting
13	"140 days after the date on which the
14	administering authority initiates an
15	investigation under section 732(c)";
16	and
17	(II) by striking "best informa-
18	tion" and inserting "information";
19	and
20	(ii) in subparagraph (B)—
21	(I) by striking "120" and insert-
22	ing "100";
23	(II) by striking "160" and in-
24	serting "140";

1	(III) by striking "100" and in-
2	serting "80"; and
3	(IV) by striking "160" and in-
4	serting "140".
5	(D) Section 733(c)(1) (19 U.S.C.
6	1673b(c)(1)) is amended by striking "210th
7	day after the date on which a petition is filed
8	under section 732(b)" and inserting "190th day
9	after the date on which the administering au-
10	thority initiates an investigation under section
11	732(c)".
12	(E) Section 733(f) (19 U.S.C. 1673b(f)) is
13	amended to read as follows:
14	"(f) Notice of Determination.—Whenever the
15	Commission or the administering authority makes a deter-
16	mination under this section, the Commission or the admin-
17	istering authority, as the case may be, shall notify the pe-
18	titioner, and other parties to the investigation, and the
19	Commission or the administering authority (whichever is
20	appropriate) of its determination. The administering au-
21	thority shall include with such notification the facts and
22	conclusions on which its determination is based. Not later
23	than 5 days after the date on which the determination is
24	required to be made under subsection (a)(2), the Commis-

- 1 sion shall transmit to the administering authority the facts
- 2 and conclusions on which its determination is based.".
- 3 SEC. 213. DE MINIMIS DUMPING MARGIN.
- 4 (a) Preliminary Determinations.—Section
- 5 733(b) (19 U.S.C. 1673b(b)) is amended by adding at the
- 6 end the following new paragraph:
- 7 "(3) De minimis dumping margin.—In mak-
- 8 ing a determination under this subsection, the ad-
- 9 ministering authority shall disregard any weighted
- average dumping margin that is de minimis. For
- purposes of the preceding sentence, a weighted aver-
- age dumping margin is de minimis if the administer-
- ing authority determines that it is less than 2 per-
- cent ad valorem or the equivalent specific rate for
- the subject merchandise.".
- 16 (b) Final Determinations.—Section 735(a) (19
- 17 U.S.C. 1673d(a)) is amended by adding at the end the
- 18 following new paragraph:
- 19 "(4) DE MINIMIS DUMPING MARGIN.—In mak-
- ing a determination under this subsection, the ad-
- 21 ministering authority shall disregard any weighted
- average dumping margin that is de minimis as de-
- 23 fined in section 733(b)(3).".
- 24 SEC. 214. CRITICAL CIRCUMSTANCES.
- 25 (a) Countervailing Duty Investigations.—

1	(1) Preliminary determinations.—Section
2	703(e)(1) (19 U.S.C. 1671b(e)(1)) is amended—
3	(A) in the matter preceding subparagraph
4	(A) by striking "best information" and insert-
5	ing "information"; and
6	(B) by amending subparagraphs (A) and
7	(B) to read as follows:
8	"(A) the alleged countervailable subsidy is
9	inconsistent with the Subsidies Agreement, and
10	"(B) there have been massive imports of
11	the subject merchandise over a relatively short
12	period.".
13	(2) Final determinations.—(A) Section
14	705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended—
15	(i) in subparagraph (A) by inserting "Sub-
16	sidies" before "Agreement"; and
17	(ii) in subparagraph (B) by striking "class
18	or kind of merchandise involved" and inserting
19	"subject merchandise".
20	(B) Section 705(b)(4)(A) (19 U.S.C.
21	1671d(b)(4)) is amended to read as follows:
22	"(A) COMMISSION STANDARD FOR RETRO-
23	ACTIVE APPLICATION.—
24	"(i) IN GENERAL.—If the finding of
25	the administering authority under sub-

1	section $(a)(2)$ is affirmative, then the final
2	determination of the Commission shall in-
3	clude a finding as to whether the imports
4	subject to the affirmative determination
5	under subsection (a)(2) are likely to under-
6	mine seriously the remedial effect of the
7	countervailing duty order to be issued
8	under section 706.
9	"(ii) Factors to consider.—In
10	making the evaluation under clause (i), the
11	Commission shall consider, among other
12	factors it considers relevant—
13	"(I) the timing and the volume of
14	the imports,
15	"(II) any rapid increase in inven-
16	tories of the imports, and
17	"(III) any other circumstances
18	indicating that the remedial effect of
19	the countervailing duty order will be
20	seriously undermined.''.
21	(b) Antidumping Investigations.—
22	(1) Preliminary determinations.—Section
23	733(e)(1) (19 U.S.C. 1673b(e)(1)) is amended—

1	(A) in the matter preceding subparagraph
2	(A) by striking "best information" and insert-
3	ing "information"; and
4	(B) by amending subparagraphs (A) and
5	(B) to read as follows:
6	"(A)(i) there is a history of dumping and
7	material injury by reason of dumped imports in
8	the United States or elsewhere of the subject
9	merchandise, or
10	"(ii) the person by whom, or for whose ac-
11	count, the merchandise was imported knew or
12	should have known that the exporter was selling
13	the subject merchandise at less than its fair
14	value and that there was likely to be material
15	injury by reason of such sales, and
16	"(B) there have been massive imports of
17	the subject merchandise over a relatively short
18	period.''.
19	(2) Final determinations.—(A) Section
20	735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended—
21	(i) in clause (i) of subparagraph (A)—
22	(I) by inserting "and material injury
23	by reason of dumped imports" after "his-
24	tory of dumping"; and

1	(II) by striking "class or kind of the
2	merchandise which is the subject of the in-
3	vestigation" and inserting "subject mer-
4	chandise'';
5	(ii) in clause (ii) of subparagraph (A) by
6	striking "merchandise which is the subject of
7	the investigation at less than its fair value" and
8	inserting "subject merchandise at less than its
9	fair value and that there would be material in-
10	jury by reason of such sales"; and
11	(iii) in subparagraph (B) by striking "mer-
12	chandise which is the subject of the investiga-
13	tion" and inserting "subject merchandise".
14	(B) Section 735(b)(4)(A) (19 U.S.C.
15	1673d(b)(4)(A)) is amended to read as follows:
16	"(A) Commission standard for retro-
17	ACTIVE APPLICATION.—
18	"(i) IN GENERAL.—If the finding of
19	the administering authority under sub-
20	section (a)(3) is affirmative, then the final
21	determination of the Commission shall in-
22	clude a finding as to whether the imports
23	subject to the affirmative determination
24	under subsection (a)(3) are likely to under-
25	mine seriously the remedial effect of the

1	antidumping duty order to be issued under
2	section 736.
3	"(ii) Factors to consider.—In
4	making the evaluation under clause (i), the
5	Commission shall consider, among other
6	factors it considers relevant—
7	"(I) the timing and the volume of
8	the imports,
9	"(II) a rapid increase in inven-
10	tories of the imports, and
11	"(III) any other circumstances
12	indicating that the remedial effect of
13	the antidumping order will be seri-
14	ously undermined.".
15	SEC. 215. PROVISIONAL MEASURES.
16	(a) Countervailing Duties.—
17	(1) Suspension of Liquidation.—Section
18	703(d) (19 U.S.C. 1671b(d)) is amended—
19	(A) in paragraph (1), by striking "ware-
20	house" and all that follows through "Register,"
21	and inserting "warehouse, for consumption on
22	or after the later of—
23	"(A) the date on which notice of the deter-
24	mination is published in the Federal Register,
25	or

1	"(B) the date that is 60 days after the
2	date on which notice of the determination to
3	initiate the investigation is published in the
4	Federal Register,"; and
5	(B) by adding at the end the following:
6	"The instructions of the administering authority under
7	paragraphs (1) and (2) may not remain in effect for more
8	than 4 months.".
9	(2) Critical circumstances cases.—Section
10	703(e)(2) (19 U.S.C. 1671b(e)(2)) is amended by
11	striking "warehouse, for consumption on or after the
12	date which is 90 days before the date on which sus-
13	pension of liquidation was first ordered." and insert-
14	ing "warehouse, for consumption on or after the
15	later of—
16	"(A) the date which is 90 days before the
17	date on which the suspension of liquidation was
18	first ordered, or
19	"(B) the date on which notice of the deter-
20	mination to initiate the investigation is pub-
21	lished in the Federal Register.".
22	(b) Antidumping Duties.—
23	(1) Suspension of Liquidation.—Section
24	733(d) (19 U.S.C. 1673b(d)) is amended—

1	(A) in paragraph (1), by striking "ware-
2	house" and all that follows through "Register,"
3	and inserting "warehouse, for consumption or
4	or after the later of—
5	"(A) the date on which notice of the deter-
6	mination is published in the Federal Register,
7	or
8	"(B) the date that is 60 days after the
9	date on which notice of the determination to
10	initiate the investigation is published in the
11	Federal Register,"; and
12	(B) by adding at the end the following:
13	"The instructions of the administering authority under
14	paragraphs (1) and (2) may not remain in effect for more
15	than 4 months, except that the administering authority
16	may, at the request of exporters representing a significant
17	proportion of exports of the subject merchandise, extend
18	that 4-month period to not more than 6 months.".
19	(2) Critical circumstances cases.—Section
20	733(e)(2) (19 U.S.C. 1673b(e)(2)) is amended by
21	striking "warehouse, for consumption on or after the
22	date which is 90 days before the date on which sus-
23	pension of liquidation was first ordered." and insert-
24	ing "warehouse, for consumption on or after the
25	lator of

1	"(A) the date which is 90 days before the
2	date on which the suspension of liquidation was
3	first ordered, or
4	"(B) the date on which notice of the deter-
5	mination to initiate the investigation is pub-
6	lished in the Federal Register.".
7	SEC. 216. CONDITIONS ON ACCEPTANCE OF SUSPENSION
8	AGREEMENTS.
9	(a) Countervalling Duties.—Section 704(d)(1)
10	(19 U.S.C. 1671c(d)(1)) is amended by striking "In apply-
11	ing" and inserting the following:
12	"Where practicable, the administering authority
13	shall provide to the exporters who would have been
14	subject to the agreement the reasons for not accept-
15	ing the agreement and, to the extent possible, an op-
16	portunity to submit comments thereon. In applying".
17	(b) Antidumping Duties.—Section 734(d) (19
18	U.S.C. 1673c(d)) is amended by adding at the end the
19	following flush sentence:
20	"Where practicable, the administering authority shall pro-
21	vide to the exporters who would have been subject to the
22	agreement the reasons for not accepting the agreement
23	and, to the extent possible, an opportunity to submit com-
24	ments thereon.".

1 SEC. 217. TERMINATION OF INVESTIGATION.

2	(a) Countervailing Duty Investigations.—Sec-
3	tion 704(a)(1) (19 U.S.C. 1671c(a)(1)) is amended—
4	(1) by striking "Except" and inserting "(A)
5	WITHDRAWAL OF PETITION.—Except";
6	(2) by indenting the text so as to align it with
7	subparagraph (B) (as added by paragraph (3) of
8	this subsection); and
9	(3) by adding at the end the following:
10	"(B) Refiling of Petition.—If, within 3
11	months after the withdrawal of a petition under
12	subparagraph (A), a new petition is filed seek-
13	ing the imposition of duties on both the subject
14	merchandise of the withdrawn petition and the
15	subject merchandise from another country, the
16	administering authority and the Commission
17	may use in the investigation initiated pursuant
18	to the new petition any records compiled in an
19	investigation conducted pursuant to the with-
20	drawn petition. This subparagraph applies only
21	with respect to the first withdrawal of a peti-
22	tion.''.
23	(b) Antidumping Duty Investigations.—Section
24	734(a)(1) (19 U.S.C. 1673c(a)(1)) is amended—
25	(1) by striking "Except" and inserting "(A)
26	WITHDRAWAL OF PETITION.—Except";

1	(2) by indenting the text so as to align it with
2	subparagraph (B) (as added by paragraph (3) of
3	this subsection); and
4	(3) by adding at the end the following:
5	"(B) Refiling of Petition.—If, within 3
6	months after the withdrawal of a petition under
7	subparagraph (A), a new petition is filed seek
8	ing the imposition of duties on both the subject
9	merchandise of the withdrawn petition and the
10	subject merchandise from another country, the
11	administering authority and the Commission
12	may use in the investigation initiated pursuant
13	to the new petition any records compiled in ar
14	investigation conducted pursuant to the with
15	drawn petition. This subparagraph applies only
16	with respect to the first withdrawal of a peti-
17	tion.".
18	SEC. 218. SPECIAL RULES FOR REGIONAL INDUSTRIES.
19	(a) Suspension Agreements.—
20	(1) Countervailing duty investigations.—
21	Section 704 (19 U.S.C. 1671c) is amended by add-
22	ing at the end the following new subsection:
23	"(l) Special Rule for Regional Industry In-
24	VESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b) or (c).

"(2) Requirements for suspension agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b) or (c), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 705(b) but not in the preliminary affirmative determination under section 703(a), any agreement described in paragraph (1) may be accepted within 60 days after the countervailing duty order is published under section 706.

"(3) EFFECT OF SUSPENSION AGREEMENT ON COUNTERVAILING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the countervailing duty order is published, the administering authority shall rescind the order, refund any

1	cash deposit and release any bond or other security
2	deposited under section 703(d)(1)(B), and instruct
3	the Customs Service that entries of the subject mer-
4	chandise that were made during the period that the
5	order was in effect shall be liquidated without regard
5	to countervailing duties.".

- 7 (2) ANTIDUMPING INVESTIGATIONS.—Section 8 734 (19 U.S.C. 1673c) is amended by adding at the 9 end the following new subsection:
- 10 "(m) Special Rule for Regional Industry In-11 vestigations.—

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- "(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b), (c), or (l).
 - "(2) REQUIREMENTS FOR SUSPENSION AGREE-MENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b), (c), or (l), except that if the Commission makes a regional industry determination described

- in paragraph (1) in the final affirmative determination under section 735(b) but not in the preliminary affirmative determination under section 733(a), any agreement described in paragraph (1) may be accepted within 60 days after the antidumping order is published under section 736.
- 7 "(3) Effect of suspension agreement on ANTIDUMPING DUTY ORDER.—If an agreement de-8 scribed in paragraph (1) is accepted after the anti-9 dumping duty order is published, the administering 10 11 authority shall rescind the order, refund any cash deposit and release any bond or other security de-12 13 posited under section 733(d)(1)(B), and instruct the 14 Customs Service that entries of the subject merchan-15 dise that were made during the period that the order 16 was in effect shall be liquidated without regard to 17 antidumping duties.".
- 18 (b) Applicability of Orders to New Ship-19 pers.—
- 20 (1) COUNTERVAILING DUTY CASES.—Section 21 706 (19 U.S.C. 1671e) is amended by adding at the 22 end the following new subsection:
- 23 "(c) Special Rule for Regional Industries.—
- 24 "(1) IN GENERAL.—In an investigation under 25 this subtitle in which the Commission makes a re-

determination under gional industry section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be as-sessed only on the subject merchandise of the spe-cific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

- "(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the countervailing duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B)."
 - (2) Antidumping duty cases.—Section 736 (19 U.S.C. 1673e) is amended by adding at the end the following new subsection:
- 20 "(d) Special Rule for Regional Industries.—
 - "(1) IN GENERAL.—In an investigation in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject

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1	merchandise of the specific exporters or producers
2	that exported the subject merchandise for sale in the
3	region concerned during the period of investigation.
4	"(2) Exception for New Exporters and
5	PRODUCERS.—After publication of the antidumping
6	duty order, if the administering authority finds that
7	a new exporter or producer is exporting the subject
8	merchandise for sale in the region concerned, the ad-
9	ministering authority shall direct that duties be as-
10	sessed on the subject merchandise of the new ex-
11	porter or producer consistent with the provisions of
12	section 751(a)(2)(B).''.
13	SEC. 219. DETERMINATION OF WEIGHTED AVERAGE DUMP
13 14	SEC. 219. DETERMINATION OF WEIGHTED AVERAGE DUMP- ING MARGIN.
14	ING MARGIN.
14 15	ing margin. (a) Preliminary Determination.—
14 15 16	ing margin. (a) Preliminary Determination.— (1) In general.—Section 733(d) (19 U.S.C.
14 15 16 17	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—
14 15 16 17 18	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended— (A) by striking paragraph (2);
14 15 16 17 18	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended— (A) by striking paragraph (2); (B) by redesignating paragraph (1), as
14 15 16 17 18 19 20	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended— (A) by striking paragraph (2); (B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph
14 15 16 17 18 19 20 21	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended— (A) by striking paragraph (2); (B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph (2);
14 15 16 17 18 19 20 21	ING MARGIN. (a) PRELIMINARY DETERMINATION.— (1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended— (A) by striking paragraph (2); (B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph (2); (C) by inserting "and" at the end of para-

1	"(1)(A) shall—
2	"(i) determine an estimated weighted aver-
3	age dumping margin for each exporter and pro-
4	ducer individually investigated, and
5	"(ii) determine, in accordance with section
6	735(c)(5), an estimated all-others rate for all
7	exporters and producers not individually inves-
8	tigated, and
9	"(B) shall order the posting of a cash deposit,
10	bond, or other security, as the administering author-
11	ity deems appropriate, for each entry of the subject
12	merchandise in an amount based on the estimated
13	weighted average dumping margin or the estimated
14	all-others rate, whichever is applicable,".
15	(2) Conforming amendments.—Section
16	733(b)(1)(A) (19 U.S.C. 1673b(b)(1)(A)) is amend-
17	ed by striking the last sentence.
18	(b) Final Determination.—
19	(1) In General.—Section $735(c)(1)$ (19)
20	U.S.C. 1673d(c)(1)) is amended—
21	(A) in subparagraph (B)—
22	(i) by redesignating such subpara-
23	graph as subparagraph (C); and
24	(ii) by striking "under paragraphs (1)
25	and (2)" and all that follows through "se-

1	curity" and inserting "the suspension of
2	liquidation under section 733(d)(2)";
3	(B) by striking "and" at the end of sub-
4	paragraph (A); and
5	(C) by inserting after subparagraph (A)
6	the following new subparagraph:
7	"(B)(i) the administering authority shall—
8	"(I) determine the estimated weighted
9	average dumping margin for each exporter
10	and producer individually investigated, and
11	"(II) determine, in accordance with
12	paragraph (5), the estimated all-others
13	rate for all exporters and producers not in-
14	dividually investigated, and
15	''(ii) the administering authority shall
16	order the posting of a cash deposit, bond, or
17	other security, as the administering authority
18	deems appropriate, for each entry of the subject
19	merchandise in an amount based on the esti-
20	mated weighted average dumping margin or the
21	estimated all-others rate, whichever is applica-
22	ble, and".
23	(2) METHOD FOR DETERMINING WEIGHTED AV-
24	ERAGE DUMPING MARGIN.—Section 735(c) (19

1	U.S.C. 1673d(c)) is amended by adding at the end
2	the following new paragraph:

"(5) METHOD FOR DETERMINING ESTIMATED ALL-OTHERS RATE.—

"(A) GENERAL RULE.—For purposes of this subsection and section 733(d), the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under section 776.

"(B) EXCEPTION.—If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.".

1	(c) Technical and Conforming Amendments.—
2	(1) Section 733(e)(2) is amended by striking
3	"subsection (d)(1)" and inserting "subsection
4	(d)(2)".
5	(2) Section 734(f)(2)(A) is amended—
6	(A) in clause (i), by striking "section
7	733(d)(1)" and inserting "section 733(d)(2)";
8	and
9	(B) in clause (iii), by striking "section
10	733(d)(2)" and inserting "section
11	733(d)(1)(B)".
12	(3) Section 734(f)(2)(B) is amended—
13	(A) by striking "section 733(d)(1)" and in-
14	serting "section 733(d)(2)"; and
15	(B) by striking "section 733(d)(2)" and
16	inserting "section 733(d)(1)(B)".
17	(4) Section 734(h)(3) is amended—
18	(A) in subparagraph (A), by striking "sec-
19	tion 733(d)(1)" and inserting "section
20	733(d)(2)"; and
21	(B) in subparagraph (B), by striking "sec-
22	tion 733(d)(2)" and inserting "section
23	733(d)(1)(B)".

- 1 (5) Section 734(i)(1)(A) is amended by striking
 2 "section 733(d)(1)" and inserting "section
 3 733(d)(2)".
 4 (6) Section 735(c)(2)(A) is amended by striking
- 5 "section 703(d)(1)" and inserting "section 6 733(d)(2)".
- 7 (7) Section 735(c)(2)(B) is amended by striking 8 "section 733(d)(2)" and inserting "section 733(d)(1)(B)".
- 10 (8) Section 735(c)(3)(B) is amended by striking 11 "section 733(d)(2)" and inserting "section 12 733(d)(1)(B)".
- 13 (9) Section 736(b)(1) is amended by striking 14 "section 733(d)(1)" each place it appears and in-15 serting "section 733(d)(2)".
- 16 (10) Section 737(a) is amended by striking 17 "section 733(d)(2)" each place it appears in the 18 heading and in the text and inserting "section 19 733(d)(1)(B)".
- 20 SEC. 220. REVIEW OF DETERMINATIONS.
- 21 (a) IN GENERAL.—Section 751 (19 U.S.C. 1675) is
- 22 amended to read as follows:
- 23 "SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.
- "(a) Periodic Review of Amount of Duty.—

1	(1) IN GENERAL.—At least once during each
2	12-month period beginning on the anniversary of the
3	date of publication of a countervailing duty order
4	under this title or under section 303 of this Act, an
5	antidumping duty order under this title or a finding
6	under the Antidumping Act, 1921, or a notice of the
7	suspension of an investigation, the administering au-
8	thority, if a request for such a review has been re-
9	ceived and after publication of notice of such review
10	in the Federal Register, shall—
11	"(A) review and determine the amount of
12	any net countervailable subsidy,
13	"(B) review, and determine (in accordance
14	with paragraph (2)), the amount of any anti-
15	dumping duty, and
16	"(C) review the current status of, and
17	compliance with, any agreement by reason of
18	which an investigation was suspended, and re-
19	view the amount of any net countervailable sub-
20	sidy or dumping margin involved in the agree-
21	ment,
22	and shall publish in the Federal Register the results
23	of such review, together with notice of any duty to
24	be assessed, estimated duty to be deposited, or inves-
25	tigation to be resumed.

1	"(2) Determination of antidumping du-
2	TIES.—
3	"(A) In General.—For the purpose of
4	paragraph (1)(B), the administering authority
5	shall determine—
6	"(i) the normal value and export price
7	(or constructed export price) of each entry
8	of the subject merchandise, and
9	''(ii) the dumping margin for each
10	such entry.
11	"(B) Determination of antidumping
12	OR COUNTERVAILING DUTIES FOR NEW EX-
13	PORTERS AND PRODUCERS.—
14	"(i) IN GENERAL.—If the administer-
15	ing authority receives a request from an
16	exporter or producer of the subject mer-
17	chandise establishing that—
18	"(I) such exporter or producer
19	did not export the merchandise that
20	was the subject of an antidumping
21	duty or countervailing duty order to
22	the United States (or, in the case of
23	a regional industry, did not export the
24	subject merchandise for sale in the re-

1	gion concerned) during the period of
2	investigation, and
3	"(II) such exporter or producer
4	is not affiliated (within the meaning
5	of section 771(33)) with any exporter
6	or producer who exported the subject
7	merchandise to the United States (or
8	in the case of a regional industry, who
9	exported the subject merchandise for
10	sale in the region concerned) during
11	that period,
12	the administering authority shall conduct a
13	review under this subsection to establish
14	an individual weighted average dumping
15	margin or an individual countervailing
16	duty rate (as the case may be) for such ex-
17	porter or producer.
18	"(ii) Time for review under
19	CLAUSE (i).—The administering authority
20	shall commence a review under clause (i)
21	in the calendar month beginning after—
22	"(I) the end of the 6-month pe-
23	riod beginning on the date of the
24	countervailing duty or antidumping
25	duty order under review, or

1	"(II) the end of any 6-month pe-
2	riod occurring thereafter,
3	if the request for the review is made dur-
4	ing that 6-month period.
5	"(iii) Posting bond or security.—
6	The administering authority shall, at the
7	time a review under this subparagraph is
8	initiated, direct the Customs Service to
9	allow, at the option of the importer, the
10	posting, until the completion of the review,
11	of a bond or security in lieu of a cash de-
12	posit for each entry of the subject mer-
13	chandise.
14	"(iv) Time limits.—The administer-
15	ing authority shall make a preliminary de-
16	termination in a review conducted under
17	this subparagraph within 180 days after
18	the date on which the review is initiated,
19	and a final determination within 90 days
20	after the date the preliminary determina-
21	tion is issued, except that if the admin-
22	istering authority concludes that the case
23	is extraordinarily complicated, it may ex-
24	tend the 180-day period to 300 days and
25	may extend the 90-day period to 150 days.

"(C) RESULTS OF DETERMINATIONS.—The
determination under this paragraph shall be the
basis for the assessment of countervailing or
antidumping duties on entries of merchandise
covered by the determination and for deposits

"(3) TIME LIMITS.—

of estimated duties.

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"(A) Preliminary and final deter-MINATIONS.—The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested, and a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245day period to 365 days and may extend that 120-day period to 180 days. The administering authority may extend the time for making a final determination without extending the time

for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

"(B) LIQUIDATION OF ENTRIES.—If the administering authority orders any liquidation of entries pursuant to a review under paragraph (1), such liquidation shall be made promptly and, to the greatest extent practicable, within 90 days after the instructions to Customs are issued. In any case in which liquidation has not occurred within that 90-day period, the Secretary of the Treasury shall, upon the request of the affected party, provide an explanation thereof.

"(C) EFFECT OF PENDING REVIEW UNDER SECTION 516A.—In a case in which a final determination under paragraph (1) is under review under section 516A and a liquidation of entries covered by the determination is enjoined under section 516A(c)(2) or suspended under section 516A(g)(5)(C), the administering authority shall, within 10 days after the final disposition of the review under section 516A, transmit to the Federal Register for publication

the final disposition and issue instructions to
the Customs Service with respect to the liquidation of entries pursuant to the review. In such
a case, the 90-day period referred to in subparagraph (B) shall begin on the day on which
the administering authority issues such instructions.

"(4) Absorption of antidumping duties.—
During any review under this subsection initiated 2
years or 4 years after the publication of an antidumping duty order under section 736(a), the administering authority, if requested, shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. The administering authority shall notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a review under subsection (c).

- 22 "(b) Reviews Based on Changed Cir-23 cumstances.—
- 24 "(1) IN GENERAL.—Whenever the administer-25 ing authority or the Commission receives informa-

1	tion concerning, or a request from an interested
2	party for a review of—
3	"(A) a final affirmative determination that
4	resulted in an antidumping duty order under
5	this title or a finding under the Antidumping
6	Act, 1921, or in a countervailing duty order
7	under this title or section 303,
8	"(B) a suspension agreement accepted
9	under section 704 or 734, or
10	"(C) a final affirmative determination re-
11	sulting from an investigation continued pursu-
12	ant to section 704(g) or 734(g),
13	which shows changed circumstances sufficient to
14	warrant a review of such determination or agree-
15	ment, the administering authority or the Commis-
16	sion (as the case may be) shall conduct a review of
17	the determination or agreement after publishing no-
18	tice of the review in the Federal Register.
19	"(2) Commission review.—In conducting a
20	review under this subsection, the Commission
21	shall—
22	"(A) in the case of a countervailing duty
23	order or antidumping duty order or finding, de-
24	termine whether revocation of the order or find-

1	ing is likely to lead to continuation or recur-
2	rence of material injury,
3	"(B) in the case of a determination made
4	pursuant to section 704(h)(2) or 734(h)(2), de-
5	termine whether the suspension agreement con-
6	tinues to eliminate completely the injurious ef-
7	fects of imports of the subject merchandise, and
8	"(C) in the case of an affirmative deter-
9	mination resulting from an investigation contin-
10	ued under section 704(g) or 734(g), determine
11	whether termination of the suspended investiga-
12	tion is likely to lead to continuation or recur-
13	rence of material injury.
14	"(3) Burden of Persuasion.—During a re-
15	view conducted by the Commission under this sub-
16	section—
17	"(A) the party seeking revocation of an
18	order or finding described in paragraph (1)(A)
19	shall have the burden of persuasion with respect
20	to whether there are changed circumstances
21	sufficient to warrant such revocation, and
22	"(B) the party seeking termination of a
23	suspended investigation or a suspension agree-
24	ment shall have the burden of persuasion with
25	respect to whether there are changed cir-

1	cumstances sufficient to warrant such termi-
2	nation.
3	"(4) Limitation on period for review.—In
4	the absence of good cause shown—
5	"(A) the Commission may not review a de-
6	termination made under section 705(b) or
7	735(b), or an investigation suspended under
8	section 704 or 734, and
9	"(B) the administering authority may not
10	review a determination made under section
11	705(a) or 735(a), or an investigation suspended
12	under section 704 or 734,
13	less than 24 months after the date of publication of
14	notice of that determination or suspension.
15	"(c) Five-Year Review.—
16	"(1) IN GENERAL.—Notwithstanding subsection
17	(b) and except in the case of a transition order de-
18	fined in paragraph (6), 5 years after the date of
19	publication of—
20	"(A) a countervailing duty order (other
21	than a countervailing duty order to which sub-
22	paragraph (B) applies or which was issued
23	without an affirmative determination of injury
24	by the Commission under section 303), an anti-
25	dumping duty order, or a notice of suspension

1	of an investigation, described in subsection
2	(a)(1),
3	"(B) a notice of injury determination
4	under section 753 with respect to a countervail-
5	ing duty order, or
6	"(C) a determination under this section to
7	continue an order or suspension agreement,
8	the administering authority and the Commission
9	shall conduct a review to determine, in accordance
10	with section 752, whether revocation of the counter-
11	vailing or antidumping duty order or termination of
12	the investigation suspended under section 704 or
13	734 would be likely to lead to continuation or recur-
14	rence of dumping or a countervailable subsidy (as
15	the case may be) and of material injury.
16	"(2) Notice of initiation of review.—Not
17	later than 30 days before the fifth anniversary of the
18	date described in paragraph (1), the administering
19	authority shall publish in the Federal Register a no-
20	tice of initiation of a review under this subsection
21	and request that interested parties submit—
22	"(A) a statement expressing their willing-
23	ness to participate in the review by providing
24	information requested by the administering au-
25	thority and the Commission.

1	"(B) a statement regarding the likely ef-
2	fects of revocation of the order or termination
3	of the suspended investigation, and
4	"(C) such other information or industry
5	data as the administering authority or the Com-
6	mission may specify.
7	"(3) Responses to notice of initiation.—
8	"(A) No response.—If no interested
9	party responds to the notice of initiation under
10	this subsection, the administering authority
11	shall issue a final determination, within 90 days
12	after the initiation of a review, revoking the
13	order or terminating the suspended investiga-
14	tion to which such notice relates. For purposes
15	of this paragraph, an interested party means a
16	party described in section 771(9) (C), (D), (E),
17	(F), or (G).
18	"(B) Inadequate response.—If inter-
19	ested parties provide inadequate responses to a
20	notice of initiation, the administering authority
21	within 120 days after the initiation of the re-
22	view, or the Commission, within 150 days after
23	such initiation, may issue, without further in-
24	vestigation, a final determination based on the

facts available, in accordance with section 776.

1	"(4) Waiver of Participation by Certain
2	INTERESTED PARTIES.—
3	"(A) IN GENERAL.—An interested party
4	described in section 771(9) (A) or (B) may
5	elect not to participate in a review conducted by
6	the administering authority under this sub-
7	section and to participate only in the review
8	conducted by the Commission under this sub-
9	section.
10	"(B) Effect of Waiver.—In a review in
11	which an interested party waives its participa-
12	tion pursuant to this paragraph, the admin-
13	istering authority shall conclude that revocation
14	of the order or termination of the investigation
15	would be likely to lead to continuation or recur-
16	rence of dumping or a countervailable subsidy
17	(as the case may be) with respect to that inter-
18	ested party.
19	"(5) Conduct of Review.—
20	"(A) TIME LIMITS FOR COMPLETION OF
21	REVIEW.—Unless the review has been com-
22	pleted pursuant to paragraph (3) or paragraph
23	(4) applies, the administering authority shall
24	make its final determination pursuant to sec-
25	tion 752 (b) or (c) within 240 days after the

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date on which a review is initiated under this subsection. If the administering authority makes a final affirmative determination, the Commission shall make its final determination pursuant to section 752(a) within 360 days after the date on which a review is initiated under this subsection.

"(B) EXTENSION OF TIME LIMIT.—The administering authority or the Commission (as the case may be) may extend the period of time making their respective determinations under this subsection by not more than 90 days, if the administering authority or the Commission (as the case may be) determines that the review is extraordinarily complicated. In a review in which the administering authority extends the time for making a final determination, but the Commission does not extend the time for making a determination, the Commission's determination shall be made not later than 120 days after the date on which the final determination of the administering authority is published.

"(C) Extraordinarily complicated.— For purposes of this subsection, the administer-

1	ing authority or the Commission (as the case
2	may be) may treat a review as extraordinarily
3	complicated if—
4	"(i) there is a large number of issues,
5	"(ii) the issues to be considered are
6	complex,
7	"(iii) there is a large number of firms
8	involved,
9	"(iv) the orders or suspended inves-
10	tigations have been grouped as described
11	in subparagraph (D), or
12	"(v) it is a review of a transition
13	order.
14	"(D) Grouped reviews.—The Commis-
15	sion, in consultation with the administering au-
16	thority, may group orders or suspended inves-
17	tigations for review if it considers that such
18	grouping is appropriate and will promote ad-
19	ministrative efficiency. Where orders or sus-
20	pended investigations have been grouped, the
21	Commission shall, subject to subparagraph (B),
22	make its final determination under this sub-
23	section not later than 120 days after the date
24	that the administering authority publishes no-

1	tice of its final determination with respect to
2	the last order or agreement in the group.
3	"(6) Special transition rules.—
4	"(A) Schedule for reviews of transi-
5	TION ORDERS.—
6	"(i) Initiation.—The administering
7	authority shall begin its review of transi-
8	tion orders in the 42d calendar month
9	after the date such orders are issued. A re-
10	view of all transition orders shall be initi-
11	ated not later than the 5th anniversary
12	after the date such orders are issued.
13	"(ii) Completion.—A review of a
14	transition order shall be completed not
15	later than 18 months after the date such
16	review is initiated. Reviews of all transition
17	orders shall be completed not later than 18
18	months after the 5th anniversary of the
19	date such orders are issued.
20	"(iii) Subsequent reviews.—The
21	time limits set forth in clauses (i) and (ii)
22	shall be applied to all subsequent 5-year
23	reviews of transition orders by substituting
24	'date of the determination to continue such
25	orders' for 'date such orders are issued'.

1	"(iv) Revocation and termi-
2	NATION.—No transition order may be re-
3	voked under this subsection before the date
4	that is 5 years after the date the WTO
5	Agreement enters into force with respect to
6	the United States.
7	"(B) SEQUENCE OF TRANSITION RE-
8	VIEWS.—The administering authority, in con-
9	sultation with the Commission, shall determine
10	such sequence of review of transition orders as
11	it deems appropriate to promote administrative
12	efficiency. To the extent practicable, older or-
13	ders shall be reviewed first.
14	"(C) Definition of transition
15	ORDER.—For purposes of this section, the term
16	'transition order' means—
17	"(i) a countervailing duty order under
18	this title or under section 303,
19	''(ii) an antidumping duty order under
20	this title or a finding under the Antidump-
21	ing Act, 1921, or
22	"(iii) a suspension of an investigation
23	under section 704 or 734,

1	which is in effect on the date the WTO Agree-
2	ment enters into force with respect to the Unit-
3	ed States.

"(D) ISSUE DATE FOR TRANSITION OR-DERS.—For purposes of this subsection, a transition order shall be treated as issued on the date the WTO Agreement enters into force with respect to the United States, if such order is based on an investigation conducted by both the administering authority and the Commission.

11 "(d) Revocation of Order or Finding; Termi-12 Nation of Suspended Investigation.—

"(1) IN GENERAL.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, after review under subsection (a) or (b). The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States which are specifically intended to offset the countervailable subsidy received.

1	"(2) FIVE-YEAR REVIEWS.—In the case of a re-
2	view conducted under subsection (c), the administer-
3	ing authority shall revoke a countervailing duty
4	order or an antidumping duty order or finding, or
5	terminate a suspended investigation, unless—
6	"(A) the administering authority makes a
7	determination that dumping or a
8	countervailable subsidy, as the case may be,
9	would be likely to continue or recur, and
10	"(B) the Commission makes a determina-
11	tion that material injury would be likely to con-
12	tinue or recur as described in section 752(a).
13	"(3) Application of Revocation or Termi-
14	NATION.—A determination under this section to re-
15	voke an order or finding or terminate a suspended
16	investigation shall apply with respect to unliquidated
17	entries of the subject merchandise which are en-
18	tered, or withdrawn from warehouse, for consump-
19	tion on or after the date determined by the admin-
20	istering authority.
21	"(e) Hearings.—Whenever the administering au-
22	thority or the Commission conducts a review under this
23	section, it shall, upon the request of an interested party,
24	hold a hearing in accordance with section 774(b) in con-
25	nection with that review

- "(f) DETERMINATION THAT BASIS FOR SUSPENSION 1 No Longer Exists.—If the determination of the Commission under subsection (b)(2)(B) is negative, the sus-3 pension agreement shall be treated as not accepted, begin-4 ning on the date of publication of the Commission's determination, and the administering authority and the Com-6 mission shall proceed, under section 704(i) or 734(i), as if the suspension agreement had been violated on that 8 date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date. "(g) Correction of Ministerial Errors.—The 12 administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors re-21 sulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.". 23
- 24 (b) Review of Determinations.—

1	(1) In GENERAL.—Section $516A(a)(1)$ (19)
2	U.S.C. 1516A(a)(1)) is amended by striking "or" at
3	the end of subparagraph (B), by inserting "or" at
4	the end of subparagraph (C), and by inserting im-
5	mediately after subparagraph (C) the following new
6	subparagraph:
7	"(D) a final determination by the admin-
8	istering authority or the Commission under sec-
9	tion 751(c)(3),".
10	(2) TECHNICAL AMENDMENTS.—Section
11	516A(b)(1) (19 U.S.C. 1516a(b)(1)) is amended—
12	(A) in subparagraph (A), by striking
13	"under paragraph (1) of subsection (a)" and in-
14	serting "under subparagraph (A), (B), or (C) of
15	subsection (a)(1)", and
16	(B) in subparagraph (B)—
17	(i) by striking "(B) in an action" and
18	inserting "(B)(i) in an action",
19	(ii) by striking the end period and in-
20	serting ", or", and
21	(iii) by adding at the end the follow-
22	ing:
23	''(ii) in an action brought under para-
24	graph (1)(D) of subsection (a), to be arbi-

1	trary, capricious, an abuse of discretion, or
2	otherwise not in accordance with law.".
3	(c) Conforming Amendment.—Section 504 (19
4	U.S.C. 1504) is amended—
5	(1) in subsection (a), by inserting "except as
6	provided in section 751(a)(3)," before "an entry of
7	merchandise not liquidated", and
8	(2) in subsection (d), by striking "When a sus-
9	pension" and inserting "Except as provided in sec-
10	tion 751(a)(3), when a suspension".
11	SEC. 221. REVIEW DETERMINATIONS.
12	(a) IN GENERAL.—Chapter 1 of subtitle C of title
13	VII (19 U.S.C. 1675) is amended by adding at the end
14	the following new section:
15	"SEC. 752. SPECIAL RULES FOR SECTION 751(b) AND 751(c)
16	REVIEWS.
17	"(a) Determination of Likelihood of Continu-
18	ATION OR RECURRENCE OF MATERIAL INJURY.—
19	"(1) In GENERAL.—In a review conducted
20	under section 751 (b) or (c), the Commission shall
21	determine whether revocation of an order, or termi-
22	nation of a suspended investigation, would be likely
23	to lead to continuation or recurrence of material in-
24	jury within a reasonably foreseeable time. The Com-
25	mission shall consider the likely volume, price effect.

1	and impact of imports of the subject merchandise or
2	the industry if the order is revoked or the suspended
3	investigation is terminated. The Commission shall
4	take into account—
5	"(A) its prior injury determinations, in-
6	cluding the volume, price effect, and impact of
7	imports of the subject merchandise on the in-
8	dustry before the order was issued or the sus-
9	pension agreement was accepted,
10	"(B) whether any improvement in the state
11	of the industry is related to the order or the
12	suspension agreement,
13	"(C) whether the industry is vulnerable to
14	material injury if the order is revoked or the
15	suspension agreement is terminated, and
16	"(D) in an antidumping proceeding under
17	section 751(c), the findings of the administer-
18	ing authority regarding duty absorption under
19	section 751(a)(4).
20	"(2) VOLUME.—In evaluating the likely volume
21	of imports of the subject merchandise if the order is
22	revoked or the suspended investigation is termi-
23	nated, the Commission shall consider whether the
24	likely volume of imports of the subject merchandise
25	would be significant if the order is revoked or the

I	suspended investigation is terminated, either in ab-
2	solute terms or relative to production or consump-
3	tion in the United States. In so doing, the Commis-
4	sion shall consider all relevant economic factors, in-
5	cluding—
6	"(A) any likely increase in production ca-
7	pacity or existing unused production capacity in
8	the exporting country,
9	"(B) existing inventories of the subject
10	merchandise, or likely increases in inventories,
11	"(C) the existence of barriers to the impor-
12	tation of such merchandise into countries other
13	than the United States, and
14	"(D) the potential for product-shifting if
15	production facilities in the foreign country,
16	which can be used to produce the subject mer-
17	chandise, are currently being used to produce
18	other products.
19	"(3) PRICE.—In evaluating the likely price ef-
20	fects of imports of the subject merchandise if the
21	order is revoked or the suspended investigation is
22	terminated, the Commission shall consider wheth-
23	er—

1	"(A) there is likely to be significant price
2	underselling by imports of the subject merchan-
3	dise as compared to domestic like products, and
4	"(B) imports of the subject merchandise
5	are likely to enter the United States at prices
6	that otherwise would have a significant depress-
7	ing or suppressing effect on the price of domes-
8	tic like products.
9	"(4) Impact on the industry.—In evaluating
10	the likely impact of imports of the subject merchan-
11	dise on the industry if the order is revoked or the
12	suspended investigation is terminated, the Commis-
13	sion shall consider all relevant economic factors
14	which are likely to have a bearing on the state of the
15	industry in the United States, including, but not
16	limited to—
17	"(A) likely declines in output, sales, mar-
18	ket share, profits, productivity, return on in-
19	vestments, and utilization of capacity,
20	"(B) likely negative effects on cash flow,
21	inventories, employment, wages, growth, ability
22	to raise capital, and investment, and
23	"(C) likely negative effects on the existing
24	development and production efforts of the in-
25	dustry, including efforts to develop a derivative

or more advanced version of the domestic like product.

The Commission shall evaluate all relevant economic factors described in this paragraph within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

"(5) Basis for determination.—The presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination of whether material injury is likely to continue or recur within a reasonably foreseeable time if the order is revoked or the suspended investigation is terminated. In making that determination, the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.

"(6) Magnitude of Margin of Dumping and NET COUNTERVAILABLE SUBSIDY; NATURE OF COUNTERVAILABLE SUBSIDY.—In making a determination under section 751 (b) or (c), the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved the

Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.

"(7) CUMULATION.—For purposes of this subsection, the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 751 (b) or (c) were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.

"(8) Special rule for regional industry. Tries.—In a review under section 751 (b) or (c) involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this title, another region that satisfies the criteria established in section 771(4)(C), or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review,

1	the Commission shall consider whether the criteria
2	established in section 771(4)(C) are likely to be sat-
3	isfied if the order is revoked or the suspended inves-
4	tigation is terminated.
5	"(b) Determination of Likelihood of Continu-
6	ATION OR RECURRENCE OF A COUNTERVAILABLE SUB-
7	SIDY.—
8	"(1) In GENERAL.—In a review conducted
9	under section 751(c), the administering authority
10	shall determine whether revocation of a countervail-
11	ing duty order or termination of a suspended inves-
12	tigation under section 704 would be likely to lead to
13	continuation or recurrence of a countervailable sub-
14	sidy. The administering authority shall consider—
15	"(A) the net countervailable subsidy deter-
16	mined in the investigation and subsequent re-
17	views, and
18	"(B) whether any change in the program
19	which gave rise to the net countervailable sub-
20	sidy described in subparagraph (A) has oc-
21	curred that is likely to affect that net
22	countervailable subsidy.
23	"(2) Consideration of other factors.—If
24	good cause is shown, the administering authority
25	shall also consider—

1	''(A) programs determined to provide
2	countervailable subsidies in other investigations
3	or reviews under this title, but only to the ex-
4	tent that such programs—
5	"(i) can potentially be used by the ex-
6	porters or producers subject to the review
7	under section 751(c), and
8	"(ii) did not exist at the time that the
9	countervailing duty order was issued or the
10	suspension agreement was accepted, and
11	"(B) programs newly alleged to provide
12	countervailable subsidies but only to the extent
13	that the administering authority makes an af-
14	firmative countervailing duty determination
15	with respect to such programs and with respect
16	to the exporters or producers subject to the re-
17	view.
18	"(3) Net countervailable subsidy.—The
19	administering authority shall provide to the Commis-
20	sion the net countervailable subsidy that is likely to
21	prevail if the order is revoked or the suspended in-
22	vestigation is terminated. The administering author-
23	ity shall normally choose a net countervailable sub-
24	sidy that was determined under section 705 or sub-
25	section (a) or (b)(1) of section 751

1	"(4) Special rule.—
2	"(A) Treatment of zero and de
3	MINIMIS RATES.—A net countervailable subsidy
4	described in paragraph (1)(A) that is zero or de
5	minimis shall not by itself require the admin-
6	istering authority to determine that revocation
7	of a countervailing duty order or termination of
8	a suspended investigation would not be likely to
9	lead to continuation or recurrence of a
10	countervailable subsidy.
11	"(B) APPLICATION OF DE MINIMIS STAND-
12	ARDS.—For purposes of this paragraph, the ad-
13	ministering authority shall apply the de minimis
14	standards applicable to reviews conducted under
15	subsections (a) and (b)(1) of section 751.
16	"(c) Determination of Likelihood of Continu-
17	ATION OR RECURRENCE OF DUMPING.—
18	"(1) IN GENERAL.—In a review conducted
19	under section 751(c), the administering authority
20	shall determine whether revocation of an antidump-
21	ing duty order or termination of a suspended inves-
22	tigation under section 734 would be likely to lead to
23	continuation or recurrence of sales of the subject
24	merchandise at less than fair value. The administer-
25	ing authority shall consider—

1	"(A) the weighted average dumping mar-
2	gins determined in the investigation and subse-
3	quent reviews, and
4	"(B) the volume of imports of the subject
5	merchandise for the period before and the pe-
6	riod after the issuance of the antidumping duty
7	order or acceptance of the suspension agree-
8	ment.
9	"(2) Consideration of other factors.—If
10	good cause is shown, the administering authority
11	shall also consider such other price, cost, market, or
12	economic factors as it deems relevant.
13	"(3) Magnitude of the margin of dump-
14	ING.—The administering authority shall provide to
15	the Commission the magnitude of the margin of
16	dumping that is likely to prevail if the order is re-
17	voked or the suspended investigation is terminated.
18	The administering authority shall normally choose a
19	margin that was determined under section 735 or
20	under subsection (a) or (b)(1) of section 751 .
21	"(4) Special rule.—
22	"(A) Treatment of zero or de minimis
23	MARGINS.—A dumping margin described in
24	paragraph (1)(A) that is zero or de minimis
25	shall not by itself require the administering au-

1	thority to determine that revocation of an anti-
2	dumping duty order or termination of a sus-
3	pended investigation would not be likely to lead
4	to continuation or recurrence of sales at less
5	than fair value.
6	"(B) Application of de minimis stand-
7	ARDS.—For purposes of this paragraph, the ad-
8	ministering authority shall apply the de minimis
9	standards applicable to reviews conducted under
10	subsections (a) and (b) of section 751.".
11	(b) Affirmative Determinations by Divided
12	Commission.—Section 771(11) (19 U.S.C. 1677(11)) is
13	amended by inserting ", including a determination under
14	section 751," after "determination by the Commission".
15	(c) Conforming Amendment.—The table of con-
16	tents for title VII is amended by inserting after the item
17	relating to section 751 the following:
	"Sec. 752. Special rules for section 751(b) and 751(c) reviews.".
18	SEC. 222. DEFINITIONS.
19	(a) Industry.—
20	(1) IN GENERAL.—Subparagraphs (A) and (B)
21	of section 771(4) (19 U.S.C. 1677(4) (A) and (B))
22	are amended to read as follows:
23	"(A) In General.—The term 'industry'
24	means the producers as a whole of a domestic
25	like product, or those producers whose collective

1	output of a domestic like product constitutes a
2	major proportion of the total domestic produc-
3	tion of the product.
4	"(B) RELATED PARTIES.—
5	"(i) If a producer of a domestic like
6	product and an exporter or importer of the
7	subject merchandise are related parties, or
8	if a producer of the domestic like product
9	is also an importer of the subject merchan-
10	dise, the producer may, in appropriate cir-
11	cumstances, be excluded from the industry.
12	"(ii) For purposes of clause (i), a pro-
13	ducer and an exporter or importer shall be
14	considered to be related parties, if—
15	"(I) the producer directly or indi-
16	rectly controls the exporter or im-
17	porter,
18	"(II) the exporter or importer di-
19	rectly or indirectly controls the pro-
20	ducer,
21	"(III) a third party directly or
22	indirectly controls the producer and
23	the exporter or importer, or
24	"(IV) the producer and the ex-
25	porter or importer directly or indi-

1	rectly control a third party and there
2	is reason to believe that the relation-
3	ship causes the producer to act dif-
4	ferently than a nonrelated producer.
5	For purposes of this subparagraph, a party
6	shall be considered to directly or indirectly
7	control another party if the party is legally
8	or operationally in a position to exercise
9	restraint or direction over the other
10	party.''.
11	(2) REGIONAL INDUSTRY.—Section 771(4)(C)
12	(19 U.S.C. 1677(4)(C)) is amended by adding at the
13	end the following new sentence: "The term regional
14	industry' means the domestic producers within a re-
15	gion who are treated as a separate industry under
16	this subparagraph.".
17	(b) Impact on Affected Domestic Industry.—
18	(1) IN GENERAL.—Section 771(7)(C)(iii) (19
19	U.S.C. 1677(7)(C)(iii)) is amended—
20	(A) by striking "and" at the end of
21	subclause (III), and
22	(B) by striking the period at the end of
23	subclause (IV) and inserting ", and

1	"(V) in a proceeding under sub-
2	title B, the magnitude of the margin
3	of dumping.".
4	(2) Captive Production.—Section 771(7)(C)
5	(19 U.S.C. 1677(7)(C)) is amended by striking
6	clause (iv) and inserting the following:
7	"(iv) Captive production.—If do-
8	mestic producers internally transfer signifi-
9	cant production of the domestic like prod-
10	uct for the production of a downstream ar-
11	ticle and sell significant production of the
12	domestic like product in the merchant
13	market, and the Commission finds that—
14	"(I) the domestic like product
15	produced that is internally transferred
16	for processing into that downstream
17	article does not enter the merchant
18	market for the domestic like product,
19	"(II) the domestic like product is
20	the predominant material input in the
21	production of that downstream article,
22	and
23	"(III) the production of the do-
24	mestic like product sold in the mer-
25	chant market is not generally used in

1 the production of that downstream a
2 ticle,
3 then the Commission, in determining ma
4 ket share and the factors affecting fina
5 cial performance set forth in clause (ii
6 shall focus primarily on the merchant ma
7 ket for the domestic like product.".
8 (3) Technical correction.—Section
9 771(7)(C)(iii) is amended by striking "subparagraphy
0 (B)(iii)" and inserting "subparagraph (B)(i)(III)".
1 (c) Determination of Threat of Injury.
2 Clauses (i) and (ii) of section 771(7)(F) (19 U.S.
3 1677(7)(F) (i) and (ii)) are amended to read as follow
4 ''(i) In General.—In determining
5 whether an industry in the United Stat
6 is threatened with material injury by re
7 son of imports (or sales for importation)
8 the subject merchandise, the Commission
9 shall consider, among other relevant ed
0 nomic factors—
"(I) if a countervailable subsider
is involved, such information as ma
be presented to it by the administe
ing authority as to the nature of t
subsidy (particularly as to whether t

1	countervailable subsidy is a subsidy
2	described in Article 3 or 6.1 of the
3	Subsidies Agreement), and whether
4	imports of the subject merchandise
5	are likely to increase,
6	"(II) any existing unused produc-
7	tion capacity or imminent, substantial
8	increase in production capacity in the
9	exporting country indicating the likeli-
10	hood of substantially increased im-
11	ports of the subject merchandise into
12	the United States, taking into account
13	the availability of other export mar-
14	kets to absorb any additional exports,
15	"(III) a significant rate of in-
16	crease of the volume or market pene-
17	tration of imports of the subject mer-
18	chandise indicating the likelihood of
19	substantially increased imports,
20	"(IV) whether imports of the
21	subject merchandise are entering at
22	prices that are likely to have a signifi-
23	cant depressing or suppressing effect
24	on domestic prices, and are likely to
25	increase demand for further imports,

1	"(V) inventories of the subject
2	merchandise,
3	"(VI) the potential for product-
4	shifting if production facilities in the
5	foreign country, which can be used to
6	produce the subject merchandise, are
7	currently being used to produce other
8	products,
9	"(VII) in any investigation under
10	this title which involves imports of
11	both a raw agricultural product (with-
12	in the meaning of paragraph
13	(4)(E)(iv)) and any product processed
14	from such raw agricultural product,
15	the likelihood that there will be in-
16	creased imports, by reason of product
17	shifting, if there is an affirmative de-
18	termination by the Commission under
19	section $705(b)(1)$ or $735(b)(1)$ with
20	respect to either the raw agricultural
21	product or the processed agricultural
22	product (but not both),
23	"(VIII) the actual and potential
24	negative effects on the existing devel-
25	opment and production efforts of the

1	domestic industry, including efforts to
2	develop a derivative or more advanced
3	version of the domestic like product,
4	and
5	"(IX) any other demonstrable ad-
6	verse trends that indicate the prob-
7	ability that there is likely to be mate-
8	rial injury by reason of imports (or
9	sale for importation) of the subject
10	merchandise (whether or not it is ac-
11	tually being imported at the time).
12	"(ii) Basis for determination.—
13	The Commission shall consider the factors
14	set forth in clause (i) as a whole in making
15	a determination of whether further
16	dumped or subsidized imports are immi-
17	nent and whether material injury by rea-
18	son of imports would occur unless an
19	order is issued or a suspension agreement
20	is accepted under this title. The presence
21	or absence of any factor which the Com-
22	mission is required to consider under
23	clause (i) shall not necessarily give decisive
24	guidance with respect to the determination.

Such a determination may not be made on

1	the basis of mere conjecture or suppo-
2	sition.''.
3	(d) Negligible Imports.—Section 771 (19 U.S.C.
4	1677) is amended—
5	(1) in paragraph (7) by striking clause (v) of
6	subparagraph (C), and
7	(2) by adding at the end the following:
8	"(24) Negligible imports.—
9	"(A) In general.—
10	"(i) Less than 3 percent.—Except
11	as provided in clauses (ii) and (iv), imports
12	from a country of merchandise correspond-
13	ing to a domestic like product identified by
14	the Commission are 'negligible' if such im-
15	ports account for less than 3 percent of the
16	volume of all such merchandise imported
17	into the United States in the most recent
18	12-month period for which data are avail-
19	able that precedes—
20	"(I) the filing of the petition
21	under section 702(b) or 732(b), or
22	"(II) the initiation of the inves-
23	tigation, if the investigation was initi-
24	ated under section 702(a) or 732(a).

1	"(ii) Exception.—Imports that
2	would otherwise be negligible under clause
3	(i) shall not be negligible if the aggregate
4	volume of imports of the merchandise from
5	all countries described in clause (i) with re-
6	spect to which investigations were initiated
7	on the same day exceeds 7 percent of the
8	volume of all such merchandise imported
9	into the United States during the applica-
10	ble 12-month period.
11	"(iii) Determination of aggre-
12	GATE VOLUME.—In determining aggregate
13	volume under clause (ii) or (iv), the Com-
14	mission shall not consider imports from
15	any country specified in paragraph
16	(7)(G)(ii).
17	"(iv) Negligibility in threat
18	ANALYSIS.—Notwithstanding clauses (i)
19	and (ii), the Commission shall not treat
20	imports as negligible if it determines that
21	there is a potential that imports from a
22	country described in clause (i) will immi-
23	nently account for more than 3 percent of
24	the volume of all such merchandise im-

ported into the United States, or that the

1	aggregate volumes of imports from all
2	countries described in clause (ii) will immi-
3	nently exceed 7 percent of the volume of
4	all such merchandise imported into the
5	United States. The Commission shall con-
6	sider such imports only for purposes of de-
7	termining threat of material injury.
8	"(B) Negligibility for certain coun-
9	TRIES IN COUNTERVAILING DUTY INVESTIGA-
0	TIONS.—In the case of an investigation under
1	section 701, subparagraph (A) shall be applied
2	to imports of subject merchandise from develop-
3	ing countries by substituting '4 percent' for '3
4	percent' in subparagraph (A)(i) and by sub-
5	stituting '9 percent' for '7 percent' in subpara-
6	graph (A)(ii).
7	"(C) Computation of import vol-
8	UMES.—In computing import volumes for pur-
9	poses of subparagraphs (A) and (B), the Com-
20	mission may make reasonable estimates on the
21	basis of available statistics.
22	"(D) REGIONAL INDUSTRIES.—In an in-
23	vestigation in which the Commission makes a
24	regional industry determination under para-

graph (4)(C), the Commission's examination

1		under subparagraphs (A) and (B) shall be
2		based upon the volume of subject merchandise
3		exported for sale in the regional market in lieu
4		of the volume of all subject merchandise im-
5		ported into the United States.".
6	(e)	CUMULATION.—Section 771(7) (19 U.S.C.
7	1677(7))	is amended—
8		(1) in subparagraph (F) by striking clause (iv),
9	and	
10		(2) by adding at the end the following:
11		"(G) CUMULATION FOR DETERMINING MA-
12		TERIAL INJURY.—
13		"(i) In general.—For purposes of
14		clauses (i) and (ii) of subparagraph (C),
15		and subject to clause (ii), the Commission
16		shall cumulatively assess the volume and
17		effect of imports of the subject merchan-
18		dise from all countries with respect to
19		which—
20		"(I) petitions were filed under
21		section 702(b) or 732(b) on the same
22		day,
23		"(II) investigations were initiated
24		under section 702(a) or 732(a) on the
25		same day, or

1	''(III) petitions were filed under
2	section 702(b) or 732(b) and inves-
3	tigations were initiated under section
4	702(a) or 732(a) on the same day,
5	if such imports compete with each other
6	and with domestic like products in the
7	United States market.
8	"(ii) Exceptions.—The Commission
9	shall not cumulatively assess the volume
10	and effect of imports under clause (i)—
11	"(I) with respect to which the ad-
12	ministering authority has made a pre-
13	liminary negative determination, un-
14	less the administering authority sub-
15	sequently made a final affirmative de-
16	termination with respect to those im-
17	ports before the Commission's final
18	determination is made;
19	"(II) from any country with re-
20	spect to which the investigation has
21	been terminated;
22	"(III) from any country des-
23	ignated as a beneficiary country under
24	the Caribbean Basin Economic Recov-
25	ery Act (19 U.S.C. 2701 et seq.) for

1	purposes of making a determination
2	with respect to that country, except
3	that the volume and effect of imports
4	of the subject merchandise from such
5	country may be cumulatively assessed
6	with imports of the subject merchan-
7	dise from any other country des-
8	ignated as such a beneficiary country
9	to the extent permitted by clause (i);
10	or
11	"(IV) from any country that is a
12	party to an agreement with the Unit-
13	ed States establishing a free trade
14	area, which entered into force and ef-
15	fect before January 1, 1987, unless
16	the Commission determines that a do-
17	mestic industry is materially injured
18	or threatened with material injury by
19	reason of imports from that country.
20	"(iii) Records in final investiga-
21	TIONS.—In each final determination in
22	which it cumulatively assesses the volume
23	and effect of imports under clause (i), the
24	Commission shall make its determinations
25	based on the record compiled in the first

investigation in which it makes a final de-1 termination, except that when the admin-2 istering authority issues its final deter-3 mination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent investigation 6 to submit comments concerning the signifi-7 cance of the administering authority's final 8 determination, and shall include such com-9 ments and the administering authority's 10 11 final determination in the record for the subsequent investigation. 12 "(iv) REGIONAL INDUSTRY DETER-13 MINATIONS.—In an investigation which in-14 volves a regional industry, and in which 15 the Commission decides that the volume 16 17 and effect of imports should be cumula-18 tively assessed under this subparagraph, 19 such assessment shall be based upon the volume and effect of imports into the re-20 gion or regions determined by the Commis-21 sion. The provisions of clause (iii) shall 22 apply to such investigations. 23

"(H) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent

24

1	practicable and subject to subparagraph (G)(ii),
2	for purposes of clause (i)(III) and (IV) of sub-
3	paragraph (F), the Commission may cumula-
4	tively assess the volume and price effects of im-
5	ports of the subject merchandise from all coun-
6	tries with respect to which—
7	"(i) petitions were filed under section
8	702(b) or 732(b) on the same day,
9	''(ii) investigations were initiated
10	under section 702(a) or 732(a) on the
11	same day, or
12	"(iii) petitions were filed under sec-
13	tion 702(b) or 732(b) and investigations
14	were initiated under section 702(a) or
15	732(a) on the same day,
16	if such imports compete with each other and
17	with domestic like products in the United
18	States market.".
19	(f) Consideration of Post-Petition Informa-
20	TION.—Section 771(7) (19 U.S.C. 1677(7)), is amended
21	by adding at the end the following:
22	"(I) Consideration of post-petition
23	INFORMATION.—The Commission shall consider
24	whether any change in the volume, price effects,
25	or impact of imports of the subject merchandise

1	since the filing of the petition in an investiga-
2	tion under subtitle A or B is related to the
3	pendency of the investigation and, if so, the
4	Commission may reduce the weight accorded to
5	the data for the period after the filing of the
6	petition in making its determination of material
7	injury, threat of material injury, or material re-
8	tardation of the establishment of an industry in
9	the United States.".
10	(g) Interested Party.—Section 771(9) (19 U.S.C.
11	1677(9)) is amended—
12	(1) in subparagraph (A), by inserting "produc-
13	ers, exporters, or" before "importers", and
14	(2) in subparagraph (B), inserting "or from
15	which such merchandise is exported" after "manu-
16	factured".
17	(h) Ordinary Course of Trade.—Section 771(15)
18	(19 U.S.C. 1677(15)) is amended—
19	(1) by striking "merchandise which is the sub-
20	ject of an investigation" and inserting "subject mer-
21	chandise"; and
22	(2) by adding at the end the following: "The
23	administering authority shall consider the following
24	sales and transactions, among others, to be outside
25	the ordinary course of trade:

1	"(A) Sales disregarded under section
2	773(b)(1).
3	"(B) Transactions disregarded under sec-
4	tion 773(f)(2).''.
5	(i) Other Definitions.—
6	(1) IN GENERAL.—Section 771 (19 U.S.C.
7	1677), as amended by subsection (d), is amended by
8	adding at the end the following:
9	"(25) Subject merchandise.—The term
10	'subject merchandise' means the class or kind of
11	merchandise that is within the scope of an investiga-
12	tion, a review, a suspension agreement, an order
13	under this title or section 303, or a finding under
14	the Antidumping Act, 1921.
15	"(26) Section 303.—The terms 'section 303'
16	and '303' mean section 303 of this Act as in effect
17	on the day before the effective date of title II of the
18	Uruguay Round Agreements Act.
19	"(27) Suspension agreement.—The term
20	'suspension agreement' means an agreement de-
21	scribed in section $704(b)$, $704(c)$, $734(b)$, $734(c)$, or
22	734(l).
23	"(28) Exporter or producer.—The term
24	'exporter or producer' means the exporter of the
25	subject merchandise, the producer of the subject

1	merchandise, or both where appropriate. For pur-
2	poses of section 773, the term 'exporter or producer'
3	includes both the exporter of the subject merchan-
4	dise and the producer of the same subject merchan-
5	dise to the extent necessary to accurately calculate
6	the total amount incurred and realized for costs, ex-
7	penses, and profits in connection with production
8	and sale of that merchandise.
9	"(29) WTO AGREEMENT.—The term "WTO
10	Agreement' means the Agreement defined in section
11	2(9) of the Uruguay Round Agreements Act.
12	"(30) WTO MEMBER AND WTO MEMBER COUN-
13	TRY.—The terms 'WTO member' and 'WTO mem-
14	ber country' mean a state, or separate customs terri-
15	tory (within the meaning of Article XII of the WTO
16	Agreement), with respect to which the United States
17	applies the WTO agreement.
18	"(31) GATT 1994.—The term 'GATT 1994'
19	means the General Agreement on Tariffs and Trade
20	annexed to the WTO Agreement.
21	"(32) Trade representative.—The term
22	'Trade Representative' means the United States
23	Trade Representative.

1	"(33) Affiliated Persons.—The following
2	persons shall be considered to be 'affiliated' or 'af-
3	filiated persons':
4	"(A) Members of a family, including broth-
5	ers and sisters (whether by the whole or half
6	blood), spouse, ancestors, and lineal descend-
7	ants.
8	"(B) Any officer or director of an organi-
9	zation and such organization.
10	"(C) Partners.
11	"(D) Employer and employee.
12	"(E) Any person directly or indirectly own-
13	ing, controlling, or holding with power to vote,
14	5 percent or more of the outstanding voting
15	stock or shares of any organization and such
16	organization.
17	"(F) Two or more persons directly or indi-
18	rectly controlling, controlled by, or under com-
19	mon control with, any person.
20	"(G) Any person who controls any other
21	person and such other person.
22	For purposes of this paragraph, a person shall be
23	considered to control another person if the person is
24	legally or operationally in a position to exercise re-
25	straint or direction over the other person.

1	"(34) Dumped; dumping.—The terms
2	'dumped' and 'dumping' refer to the sale or likely
3	sale of goods at less than fair value.".
4	(2) EXPORTER.—Paragraph (13) of section 771
5	(19 U.S.C. 1677(13)) is repealed.

- 6 SEC. 223. EXPORT PRICE AND CONSTRUCTED EXPORT
- 7 PRICE.
- 8 Section 772 (19 U.S.C. 1677a) is amended to read
- 9 as follows:
- 10 "SEC. 772. EXPORT PRICE AND CONSTRUCTED EXPORT
- 11 PRICE.
- 12 "(a) Export Price.—The term 'export price' means
- 13 the price at which the subject merchandise is first sold
- 14 (or agreed to be sold) before the date of importation by
- 15 the producer or exporter of the subject merchandise out-
- 16 side of the United States to an unaffiliated purchaser in
- 17 the United States or to an unaffiliated purchaser for ex-
- 18 portation to the United States, as adjusted under sub-
- 19 section (c).
- 20 "(b) Constructed Export Price.—The term 'con-
- 21 structed export price' means the price at which the subject
- 22 merchandise is first sold (or agreed to be sold) in the Unit-
- 23 ed States before or after the date of importation by or
- 24 for the account of the producer or exporter of such mer-
- 25 chandise or by a seller affiliated with the producer or ex-

1	porter, to a purchaser not affiliated with the producer or
2	exporter, as adjusted under subsections (c) and (d).
3	"(c) Adjustments for Export Price and Con-
4	STRUCTED EXPORT PRICE.—The price used to establish
5	export price and constructed export price shall be—
6	"(1) increased by—
7	"(A) when not included in such price, the
8	cost of all containers and coverings and all
9	other costs, charges, and expenses incident to
10	placing the subject merchandise in condition
11	packed ready for shipment to the United
12	States,
13	"(B) the amount of any import duties im-
14	posed by the country of exportation which have
15	been rebated, or which have not been collected
16	by reason of the exportation of the subject mer-
17	chandise to the United States, and
18	"(C) the amount of any countervailing
19	duty imposed on the subject merchandise under
20	subtitle A to offset an export subsidy, and
21	"(2) reduced by—
22	"(A) except as provided in paragraph
23	(1)(C), the amount, if any, included in such
24	price, attributable to any additional costs
25	charges, or expenses, and United States import

1	duties, which are incident to bringing the sub-
2	ject merchandise from the original place of
3	shipment in the exporting country to the place
4	of delivery in the United States, and
5	"(B) the amount, if included in such price,
6	of any export tax, duty, or other charge im-
7	posed by the exporting country on the expor-
8	tation of the subject merchandise to the United
9	States, other than an export tax, duty, or other
10	charge described in section 771(6)(C).
11	"(d) Additional Adjustments to Constructed
12	EXPORT PRICE.—For purposes of this section, the price
13	used to establish constructed export price shall also be re-
14	duced by—
15	"(1) the amount of any of the following ex-
16	penses generally incurred by or for the account of
17	the producer or exporter, or the affiliated seller in
18	the United States, in selling the subject merchandise
19	(or subject merchandise to which value has been
20	added)—
21	"(A) commissions for selling the subject
22	merchandise in the United States;
23	"(B) expenses that result from, and bear a
24	direct relationship to, the sale, such as credit
25	expenses, guarantees and warranties;

1	"(C) any selling expenses that the seller
2	pays on behalf of the purchaser;
3	"(D) any selling expenses not deducted
4	under subparagraph (A), (B), or (C);
5	"(2) the cost of any further manufacture or as-
6	sembly (including additional material and labor), ex-
7	cept in circumstances described in subsection (e)
8	and
9	"(3) the profit allocated to the expenses de-
10	scribed in paragraphs (1) and (2).
11	"(e) Special Rule for Merchandise With
12	VALUE ADDED AFTER IMPORTATION.—Where the subject
13	merchandise is imported by a person affiliated with the
14	exporter or producer, and the value added in the United
15	States by the affiliated person is likely to exceed substan-
16	tially the value of the subject merchandise, the administer-
17	ing authority shall determine the constructed export price
18	for such merchandise by using one of the following prices
19	if there is a sufficient quantity of sales to provide a rea-
20	sonable basis for comparison and the administering au-
21	thority determines that the use of such sales is appro-
22	priate:
23	"(1) The price of identical subject merchandise
24	sold by the exporter or producer to an unaffiliated
25	person.

1	"(2) The price of other subject merchandise
2	sold by the exporter or producer to an unaffiliated
3	person.
4	If there is not a sufficient quantity of sales to provide a
5	reasonable basis for comparison under paragraph (1) or
6	(2), or the administering authority determines that neither
7	of the prices described in such paragraphs is appropriate,
8	then the constructed export price may be determined on
9	any other reasonable basis.
10	"(f) Special Rule for Determining Profit.—
11	"(1) In general.—For purposes of subsection
12	(d)(3), profit shall be an amount determined by mul-
13	tiplying the total actual profit by the applicable per-
14	centage.
15	"(2) Definitions.—For purposes of this sub-
16	section:
17	"(A) Applicable percentage.—The
18	term 'applicable percentage' means the percent-
19	age determined by dividing the total United
20	States expenses by the total expenses.
21	"(B) Total united states expenses.—
22	The term 'total United States expenses' means
23	the total expenses described in subsection (d)
24	(1) and (2).

1	(C) TOTAL EXPENSES.—The term total
2	expenses' means all expenses in the first of the
3	following categories which applies and which
4	are incurred by or on behalf of the foreign pro-
5	ducer and foreign exporter of the subject mer-
6	chandise and by or on behalf of the United
7	States seller affiliated with the producer or ex-
8	porter with respect to the production and sale
9	of such merchandise:
10	"(i) The expenses incurred with re-
11	spect to the subject merchandise sold in
12	the United States and the foreign like
13	product sold in the exporting country if
14	such expenses were requested by the ad-
15	ministering authority for the purpose of es-
16	tablishing normal value and constructed
17	export price.
18	"(ii) The expenses incurred with re-
19	spect to the narrowest category of mer-
20	chandise sold in the United States and the
21	exporting country which includes the sub-
22	ject merchandise.
23	"(iii) The expenses incurred with re-
24	spect to the narrowest category of mer-

1	chandise sold in all countries which in-
2	cludes the subject merchandise.
3	"(D) Total actual profit.—The term
4	'total actual profit' means the total profit
5	earned by the foreign producer, exporter, and
6	affiliated parties described in subparagraph (C)
7	with respect to the sale of the same merchan-
8	dise for which total expenses are determined
9	under such subparagraph.".
10	SEC. 224. NORMAL VALUE.
11	Section 773 (19 U.S.C. 1677b) is amended to read
12	as follows:
13	"SEC. 773. NORMAL VALUE.
14	"(a) DETERMINATION.—In determining under this
15	title whether subject merchandise is being, or is likely to
16	be, sold at less than fair value, a fair comparison shall
17	be made between the export price or constructed export
18	price and normal value. In order to achieve a fair compari-
19	son with the export price or constructed export price, nor-
20	mal value shall be determined as follows:
21	"(1) Determination of normal value.—
22	"(A) IN GENERAL.—The normal value of
23	the subject merchandise shall be the price de-
24	scribed in subparagraph (B), at a time reason-
25	ably corresponding to the time of the sale used

I	to determine the export price or constructed ex-
2	port price under section 772(a) or (b).
3	"(B) PRICE.—The price referred to in sub-
4	paragraph (A) is—
5	"(i) the price at which the foreign like
6	product is first sold (or, in the absence of
7	a sale, offered for sale) for consumption in
8	the exporting country, in the usual com-
9	mercial quantities and in the ordinary
10	course of trade and, to the extent prac-
11	ticable, at the same level of trade as the
12	export price or constructed export price, or
13	"(ii) in a case to which subparagraph
14	(C) applies, the price at which the foreign
15	like product is so sold (or offered for sale)
16	for consumption in a country other than
17	the exporting country or the United States,
18	if—
19	"(I) such price is representative,
20	"(II) the aggregate quantity (or,
21	if quantity is not appropriate, value)
22	of the foreign like product sold by the
23	exporter or producer in such other
24	country is 5 percent or more of the
25	aggregate quantity (or value) of the

1	subject merchandise sold in the
2	United States or for export to the
3	United States, and
4	"(III) the administering author-
5	ity does not determine that the par-
6	ticular market situation in such other
7	country prevents a proper comparison
8	with the export price or constructed
9	export price.
10	"(C) Third country sales.—This sub-
11	paragraph applies when—
12	''(i) the foreign like product is not
13	sold (or offered for sale) for consumption
14	in the exporting country as described in
15	subparagraph (B)(i),
16	''(ii) the administering authority de-
17	termines that the aggregate quantity (or, if
18	quantity is not appropriate, value) of the
19	foreign like product sold in the exporting
20	country is insufficient to permit a proper
21	comparison with the sales of the subject
22	merchandise to the United States, or
23	"(iii) the particular market situation
24	in the exporting country does not permit a

proper comparison with the export price or constructed export price.

For purposes of clause (ii), the aggregate quantity (or value) of the foreign like product sold in the exporting country shall normally be considered to be insufficient if such quantity (or value) is less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

"(2) Fictitious markets.—No pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account in determining normal value. The occurrence of different movements in the prices at which different forms of the foreign like product are sold (or, in the absence of sales, offered for sale) in the exporting country after the issuance of an antidumping duty order may be considered by the administering authority as evidence of the establishment of a fictitious market for the foreign like product if the movement in such prices appears to reduce the amount by which the normal value exceeds the export price (or the constructed export price) of the subject merchandise.

1	"(3) Exportation from an intermediate
2	COUNTRY.—Where the subject merchandise is ex-
3	ported to the United States from an intermediate
4	country, normal value shall be determined in the in-
5	termediate country, except that normal value may be
6	determined in the country of origin of the subject
7	merchandise if—
8	"(A) the producer knew at the time of the
9	sale that the subject merchandise was destined
10	for exportation;
11	"(B) the subject merchandise is merely
12	transshipped through the intermediate country;
13	"(C) sales of the foreign like product in
14	the intermediate country do not satisfy the con-
15	ditions of paragraph (1)(C); or
16	"(D) the foreign like product is not pro-
17	duced in the intermediate country.
18	"(4) Use of constructed value.—If the ad-
19	ministering authority determines that the normal
20	value of the subject merchandise cannot be deter-
21	mined under paragraph (1)(B)(i), then, notwith-
22	standing paragraph (1)(B)(ii), the normal value of
23	the subject merchandise may be the constructed
24	value of that merchandise, as determined under sub-
25	section (e).

1	"(5) Indirect sales or offers for sale.—
2	If the foreign like product is sold or, in the absence
3	of sales, offered for sale through an affiliated party,
4	the prices at which the foreign like product is sold
5	(or offered for sale) by such affiliated party may be
6	used in determining normal value.
7	"(6) Adjustments.—The price described in
8	paragraph (1)(B) shall be—
9	"(A) increased by the cost of all containers
10	and coverings and all other costs, charges, and
11	expenses incident to placing the subject mer-
12	chandise in condition packed ready for ship-
13	ment to the United States;
14	"(B) reduced by—
15	"(i) when included in the price de-
16	scribed in paragraph $(1)(B)$, the cost of all
17	containers and coverings and all other
18	costs, charges, and expenses incident to
19	placing the foreign like product in condi-
20	tion packed ready for shipment to the
21	place of delivery to the purchaser,
22	"(ii) the amount, if any, included in
23	the price described in paragraph (1)(B),
24	attributable to any additional costs,
25	charges, and expenses incident to bringing

1	the foreign like product from the original
2	place of shipment to the place of delivery
3	to the purchaser, and
4	"(iii) the amount of any taxes im-
5	posed directly upon the foreign like prod-
6	uct or components thereof which have been
7	rebated, or which have not been collected,
8	on the subject merchandise, but only to the
9	extent that such taxes are added to or in-
10	cluded in the price of the foreign like prod-
11	uct, and
12	"(C) increased or decreased by the amount
13	of any difference (or lack thereof) between the
14	export price or constructed export price and the
15	price described in paragraph (1)(B) (other than
16	a difference for which allowance is otherwise
17	provided under this section) that is established
18	to the satisfaction of the administering author-
19	ity to be wholly or partly due to—
20	(i) the fact that the quantities in
21	which the subject merchandise is sold or
22	agreed to be sold to the United States are
23	greater than or less than the quantities in
24	which the foreign like product is sold,
25	agreed to be sold, or offered for sale,

1	"(ii) the fact that merchandise de-
2	scribed in subparagraph (B) or (C) of sec-
3	tion 771(16) is used in determining normal
4	value, or
5	"(iii) other differences in the cir-
6	cumstances of sale.
7	"(7) Additional adjustments.—
8	"(A) Level of trade.—The price de-
9	scribed in paragraph (1)(B) shall also be in-
10	creased or decreased to make due allowance for
11	any difference (or lack thereof) between the ex-
12	port price or constructed export price and the
13	price described in paragraph (1)(B) (other than
14	a difference for which allowance is otherwise
15	made under this section) that is shown to be
16	wholly or partly due to a difference in level of
17	trade between the export price or constructed
18	export price and normal value, if the difference
19	in level of trade—
20	"(i) involves the performance of dif-
21	ferent selling activities; and
22	"(ii) is demonstrated to affect price
23	comparability, based on a pattern of con-
24	sistent price differences between sales at

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1	different levels of trade in the country in
2	which normal value is determined.
3	In a case described in the preceding sentence,
4	the amount of the adjustment shall be based on
5	the price differences between the two levels of
6	trade in the country in which normal value is
7	determined.
8	"(B) Constructed export price off-
9	SET.—When normal value is established at a
10	level of trade which constitutes a more ad-
11	vanced stage of distribution than the level of
12	trade of the constructed export price, but the
13	data available do not provide an appropriate
14	basis to determine under subparagraph (A)(ii) a
15	level of trade adjustment, normal value shall be
16	reduced by the amount of indirect selling ex-
17	penses incurred in the country in which normal
18	value is determined on sales of the foreign like
19	product but not more than the amount of such
20	expenses for which a deduction is made under
21	section $772(d)(1)(D)$.

"(8) ADJUSTMENTS ТО CONSTRUCTED VALUE.—Constructed value as determined under subsection (e), may be adjusted, as appropriate, pursuant to this subsection.

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1	(D) SALES AT LESS THAN COST OF PRODUCTION.—
2	"(1) Determination; sales disregarded.—
3	Whenever the administering authority has reason-
4	able grounds to believe or suspect that sales of the
5	foreign like product under consideration for the de-
6	termination of normal value have been made at
7	prices which represent less than the cost of produc-
8	tion of that product, the administering authority
9	shall determine whether, in fact, such sales were
10	made at less than the cost of production. If the ad-
11	ministering authority determines that sales made at
12	less than the cost of production—
13	"(A) have been made within an extended
14	period of time in substantial quantities, and
15	"(B) were not at prices which permit re-
16	covery of all costs within a reasonable period of
17	time,
18	such sales may be disregarded in the determination
19	of normal value. Whenever such sales are dis-
20	regarded, normal value shall be based on the re-
21	maining sales of the foreign like product in the ordi-
22	nary course of trade. If no sales made in the ordi-
23	nary course of trade remain, the normal value shall
24	be based on the constructed value of the merchan-
25	dise.

1	"(2) Definitions and special rules.—For
2	purposes of this subsection—
3	"(A) Reasonable grounds to believe
4	OR SUSPECT.—There are reasonable grounds to
5	believe or suspect that sales of the foreign like
6	product were made at prices that are less than
7	the cost of production of the product, if—
8	"(i) in an investigation initiated under
9	section 732 or a review conducted under
10	section 751, an interested party described
11	in subparagraph (C), (D), (E), (F), or (G)
12	of section 771(9) provides information,
13	based upon observed prices or constructed
14	prices or costs, that sales of the foreign
15	like product under consideration for the
16	determination of normal value have been
17	made at prices which represent less than
18	the cost of production of the product; or
19	"(ii) in a review conducted under sec-
20	tion 751 involving a specific exporter, the
21	administering authority disregarded some
22	or all of the exporter's sales pursuant to
23	paragraph (1) in the investigation or if a
24	review has been completed, in the most re-
25	cently completed review.

1	"(B) Extended period of time.—The
2	term 'extended period of time' means a period
3	that is normally 1 year, but not less than 6
4	months.
5	"(C) Substantial quantities.—Sales
6	made at prices below the cost of production
7	have been made in substantial quantities if—
8	"(i) the volume of such sales rep-
9	resents 20 percent or more of the volume
10	of sales under consideration for the deter-
11	mination of normal value, or
12	"(ii) the weighted average per unit
13	price of the sales under consideration for
14	the determination of normal value is less
15	than the weighted average per unit cost of
16	production for such sales.
17	"(D) Recovery of costs.—If prices
18	which are below the per unit cost of production
19	at the time of sale are above the weighted aver-
20	age per unit cost of production for the period
21	of investigation or review, such prices shall be
22	considered to provide for recovery of costs with-
23	in a reasonable period of time.

1	"(3) Calculation of cost of produc-
2	TION.—For purposes of this subtitle, the cost of pro-
3	duction shall be an amount equal to the sum of-
4	"(A) the cost of materials and of fabrica-
5	tion or other processing of any kind employed
6	in producing the foreign like product, during a
7	period which would ordinarily permit the pro-
8	duction of that foreign like product in the ordi-
9	nary course of business;
10	"(B) an amount for selling, general, and
l 1	administrative expenses based on actual data
12	pertaining to production and sales of the for-
13	eign like product by the exporter in question;
14	and
15	"(C) the cost of all containers and cover-
16	ings of whatever nature, and all other expenses
17	incidental to placing the foreign like product in
18	condition packed ready for shipment.
19	For purposes of subparagraph (A), if the normal
20	value is based on the price of the foreign like prod-
21	uct sold for consumption in a country other than the
22	exporting country, the cost of materials shall be de-
23	termined without regard to any internal tax in the
24	exporting country imposed on such materials or their

1	disposition which are remitted or refunded upon ex-
2	portation.
3	"(c) Nonmarket Economy Countries.—
4	"(1) In general.—If—
5	"(A) the subject merchandise is exported
6	from a nonmarket economy country, and
7	"(B) the administering authority finds that
8	available information does not permit the nor-
9	mal value of the subject merchandise to be de-
10	termined under subsection (a),
11	the administering authority shall determine the nor-
12	mal value of the subject merchandise on the basis of
13	the value of the factors of production utilized in pro-
14	ducing the merchandise and to which shall be added
15	an amount for general expenses and profit plus the
16	cost of containers, coverings, and other expenses.
17	Except as provided in paragraph (2), the valuation
18	of the factors of production shall be based on the
19	best available information regarding the values of
20	such factors in a market economy country or coun-
21	tries considered to be appropriate by the administer-
22	ing authority.
23	"(2) Exception.—If the administering author-
24	ity finds that the available information is inadequate
25	for purposes of determining the normal value of sub-

1	ject merchandise under paragraph (1), the admin-
2	istering authority shall determine the normal value
3	on the basis of the price at which merchandise that
4	is—
5	"(A) comparable to the subject merchan-
6	dise, and
7	"(B) produced in one or more market
8	economy countries that are at a level of eco-
9	nomic development comparable to that of the
10	nonmarket economy country,
11	is sold in other countries, including the United
12	States.
13	"(3) Factors of Production.—For purposes
14	of paragraph (1), the factors of production utilized
15	in producing merchandise include, but are not lim-
16	ited to—
17	"(A) hours of labor required,
18	"(B) quantities of raw materials employed,
19	"(C) amounts of energy and other utilities
20	consumed, and
21	"(D) representative capital cost, including
22	depreciation.
23	"(4) Valuation of factors of produc-
24	TION.—The administering authority, in valuing fac-
25	tors of production under paragraph (1), shall utilize,

1	to the extent possible, the prices or costs of factors
2	of production in one or more market economy coun-
3	tries that are—
4	"(A) at a level of economic development
5	comparable to that of the nonmarket economy
6	country, and
7	"(B) significant producers of comparable
8	merchandise.
9	"(d) Special Rule for Certain Multinational
10	CORPORATIONS.—Whenever, in the course of an investiga-
11	tion under this title, the administering authority deter-
12	mines that—
13	"(1) subject merchandise exported to the Unit-
14	ed States is being produced in facilities which are
15	owned or controlled, directly or indirectly, by a per-
16	son, firm, or corporation which also owns or con-
17	trols, directly or indirectly, other facilities for the
18	production of the foreign like product which are lo-
19	cated in another country or countries,
20	"(2) subsection (a)(1)(C) applies, and
21	"(3) the normal value of the foreign like prod-
22	uct produced in one or more of the facilities outside
23	the exporting country is higher than the normal
24	value of the foreign like product produced in the fa-
25	cilities located in the exporting country,

- 1 it shall determine the normal value of the subject mer-
- 2 chandise by reference to the normal value at which the
- 3 foreign like product is sold in substantial quantities from
- 4 one or more facilities outside the exporting country. The
- 5 administering authority, in making any determination
- 6 under this paragraph, shall make adjustments for the dif-
- 7 ference between the cost of production (including taxes,
- 8 labor, materials, and overhead) of the foreign like product
- 9 produced in facilities outside the exporting country and
- 10 costs of production of the foreign like product produced
- 11 in facilities in the exporting country, if such differences
- 12 are demonstrated to its satisfaction. For purposes of this
- 13 subsection, in determining the normal value of the foreign
- 14 like product produced in a country outside of the exporting
- 15 country, the administering authority shall determine its
- 16 price at the time of exportation from the exporting country
- 17 and shall make any adjustments required by subsection
- 18 (a) for the cost of all containers and coverings and all
- 19 other costs, charges, and expenses incident to placing the
- 20 merchandise in condition packed ready for shipment to the
- 21 United States by reference to such costs in the exporting
- 22 country.
- "(e) Constructed Value.—For purposes of this
- 24 title, the constructed value of imported merchandise shall
- 25 be an amount equal to the sum of—

1	"(1) the cost of materials and fabrication or
2	other processing of any kind employed in producing
3	the merchandise, during a period which would ordi-
4	narily permit the production of the merchandise in
5	the ordinary course of business;
6	"(2)(A) the actual amounts incurred and real-
7	ized by the specific exporter or producer being exam-
8	ined in the investigation or review for selling, gen-
9	eral, and administrative expenses, and for profits, in
10	connection with the production and sale of a foreign
11	like product, in the ordinary course of trade, for con-
12	sumption in the foreign country, or
13	"(B) if actual data are not available with re-
14	spect to the amounts described in subparagraph (A),
15	then—
16	"(i) the actual amounts incurred and real-
17	ized by the specific exporter or producer being
18	examined in the investigation or review for sell-
19	ing, general, and administrative expenses, and
20	for profits, in connection with the production
21	and sale, for consumption in the foreign coun-

try, of merchandise that is in the same general

category of products as the subject merchan-

dise,

1	"(ii) the weighted average of the actual
2	amounts incurred and realized by exporters or
3	producers that are subject to the investigation
4	or review (other than the exporter or producer
5	described in clause (i)) for selling, general, and
6	administrative expenses, and for profits, in con-
7	nection with the production and sale of a for-
8	eign like product, in the ordinary course of
9	trade, for consumption in the foreign country,
10	or
11	"(iii) the amounts incurred and realized
12	for selling, general, and administrative ex-
13	penses, and for profits, based on any other rea-
14	sonable method, except that the amount allowed
15	for profit may not exceed the amount normally
16	realized by exporters or producers (other than
17	the exporter or producer described in clause (i))
18	in connection with the sale, for consumption in
19	the foreign country, of merchandise that is in
20	the same general category of products as the
21	subject merchandise; and
22	"(3) the cost of all containers and coverings of
23	whatever nature, and all other expenses incidental to

whatever nature, and all other expenses incidental to placing the subject merchandise in condition packed ready for shipment to the United States.

- 1 For purposes of paragraph (1), the cost of materials shall
- 2 be determined without regard to any internal tax in the
- 3 exporting country imposed on such materials or their dis-
- 4 position which are remitted or refunded upon exportation
- 5 of the subject merchandise produced from such materials.
- 6 "(f) Special Rules for Calculation of Cost of
- 7 Production and for Calculation of Constructed
- 8 VALUE.—For purposes of subsections (b) and (e)—
- 9 "(1) Costs.—

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"(A) IN GENERAL.—Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer on a timely basis, if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances

1	for capital expenditures and other development
2	costs.
3	"(B) Nonrecurring costs.—Costs shall
4	be adjusted appropriately for those non-
5	recurring costs that benefit current or future
6	production, or both.
7	"(C) Startup costs.—
8	"(i) IN GENERAL.—Costs shall be ad-
9	justed appropriately for circumstances in
10	which costs incurred during the time pe-
11	riod covered by the investigation or review
12	are affected by startup operations.
13	"(ii) Startup operations.—Adjust-
14	ments shall be made for startup operations
15	only where—
16	"(I) a producer is using new pro-
17	duction facilities or producing a new
18	product that requires substantial ad-
19	ditional investment, and
20	"(II) production levels are limited
21	by technical factors associated with
22	the initial phase of commercial pro-
23	duction.
24	For purposes of subclause (II), the initial
25	phase of commercial production ends at

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the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

"(iii) Adjustment for startup op-ERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the merchandise at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation or review under this title, the administering authority shall use the most recent cost of production data that it reasonably can obtain, analyze, and verify without delaying the timely completion of the investigation or review. For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is char1 acteristic of the merchandise, producer, or 2 industry concerned is achieved.

"(2) Transactions disregarded.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

"(3) Major input rule.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information

- 1 available regarding such cost of production, if such
- 2 cost is greater than the amount that would be deter-
- mined for such input under paragraph (2).".

4 SEC. 225. CURRENCY CONVERSION.

- 5 (a) IN GENERAL.—Subtitle D of title VII (19 U.S.C.
- 6 1677 et seq.) is amended by inserting after section 773
- 7 the following new section:

8 "SEC. 773A. CURRENCY CONVERSION.

- 9 "(a) IN GENERAL.—In an antidumping proceeding
- 10 under this title, the administering authority shall convert
- 11 foreign currencies into United States dollars using the ex-
- 12 change rate in effect on the date of sale of the subject
- 13 merchandise, except that, if it is established that a cur-
- 14 rency transaction on forward markets is directly linked to
- 15 an export sale under consideration, the exchange rate
- 16 specified with respect to such currency in the forward sale
- 17 agreement shall be used to convert the foreign currency.
- 18 Fluctuations in exchange rates shall be ignored.
- 19 "(b) Sustained Movement in Foreign Currency
- 20 VALUE.—In an investigation under subtitle B, if there is
- 21 a sustained movement in the value of the foreign currency
- 22 relative to the United States dollar, the administering au-
- 23 thority shall allow exporters at least 60 days to adjust
- 24 their export prices to reflect such sustained movement.".

1	(b) Conforming Amendment.—The table of con-
2	tents for title VII is amended by inserting after the item
3	relating to section 773 the following new item:
	"Sec. 773A. Currency conversion.".
4	SEC. 226. PROPRIETARY AND NONPROPRIETARY INFORMA-
5	TION.
6	(a) Proprietary Status Maintained.—
7	(1) IN GENERAL.—Section 777(b)(1) (19
8	U.S.C. $1677f(b)(1)$ is amended to read as follows:
9	"(1) Proprietary status maintained.—
10	"(A) IN GENERAL.—Except as provided in
11	subsection (a)(4)(A) and subsection (c), infor-
12	mation submitted to the administering author-
13	ity or the Commission which is designated as
14	proprietary by the person submitting the infor-
15	mation shall not be disclosed to any person
16	without the consent of the person submitting
17	the information, other than—
18	"(i) to an officer or employee of the
19	administering authority or the Commission
20	who is directly concerned with carrying out
21	the investigation in connection with which
22	the information is submitted or any review
23	under this title covering the same subject
24	merchandise, or

1	"(ii) to an officer or employee of the
2	United States Customs Service who is di-
3	rectly involved in conducting an investiga-
4	tion regarding fraud under this title.
5	"(B) Additional requirements.—The
6	administering authority and the Commission
7	shall require that information for which propri-
8	etary treatment is requested be accompanied
9	by—
10	"(i) either—
11	"(I) a non-proprietary summary
12	in sufficient detail to permit a reason-
13	able understanding of the substance
14	of the information submitted in con-
15	fidence, or
16	"(II) a statement that the infor-
17	mation is not susceptible to summary
18	accompanied by a statement of the
19	reasons in support of the contention,
20	and
21	"(ii) either—
22	"(I) a statement which permits
23	the administering authority or the
24	Commission to release under adminis-
25	trative protective order, in accordance

1	with subsection (c), the information
2	submitted in confidence, or
3	"(II) a statement to the admin-
4	istering authority or the Commission
5	that the business proprietary informa-
6	tion is of a type that should not be re-
7	leased under administrative protective
8	order.''.
9	(2) Section 751 reviews.—Section 777(b) (19
10	U.S.C. 1677f(b)) is amended by adding at the end
11	the following:
12	"(3) Section 751 reviews.—Notwithstanding
13	the provisions of paragraph (1), information submit-
14	ted to the administering authority or the Commis-
15	sion in connection with a review under section
16	751(b) or 751(c) which is designated as proprietary
17	by the person submitting the information may, if the
18	review results in the revocation of an order or find-
19	ing (or termination of a suspended investigation)
20	under section 751(d), be used by the agency to
21	which the information was originally submitted in
22	any investigation initiated within 2 years after the
23	date of the revocation or termination pursuant to a
24	petition covering the same subject merchandise.".

- 1 (b) UNWARRANTED PROPRIETARY DESIGNATION.—
- 2 Section 777(b)(2) (19 U.S.C. 1677f(b)(2)) is amended by
- 3 adding at the end the following new sentence: "In a case
- 4 in which the administering authority or the Commission
- 5 returns the information to the person submitting it, the
- 6 person may thereafter submit other material concerning
- 7 the subject matter of the returned information if the sub-
- 8 mission is made within the time otherwise provided for
- 9 submitting such material.".
- 10 SEC. 227. OPPORTUNITY FOR COMMENT BY CONSUMERS
- 11 AND INDUSTRIAL USERS.
- Section 777 (19 U.S.C. 1677f) is amended by adding
- 13 at the end the following new subsection:
- 14 "(h) Opportunity for Comment by Consumers
- 15 AND INDUSTRIAL USERS.—The administering authority
- 16 and the Commission shall provide an opportunity for in-
- 17 dustrial users of the subject merchandise and, if the mer-
- 18 chandise is sold at the retail level, for representative
- 19 consumer organizations, to submit relevant information to
- 20 the administering authority concerning dumping or a
- 21 countervailable subsidy, and to the Commission concern-
- 22 ing material injury by reason of dumped or subsidized im-
- 23 ports.".

1	SEC. 228. PUBLIC NOTICE AND EXPLANATION OF DETER
2	MINATIONS.
3	Section 777 (19 U.S.C. 1677f), as amended by sec-
4	tion 227, is amended by adding at the end the following
5	"(i) Publication of Determinations; Require-
6	MENTS FOR FINAL DETERMINATIONS.—
7	"(1) In GENERAL.—Whenever the administer-
8	ing authority makes a determination under section
9	702 or 732 whether to initiate an investigation, or
10	the administering authority or the Commission
11	makes a preliminary determination under section
12	703 or 733, a final determination under section 705
13	or section 735, a preliminary or final determination
14	in a review under section 751, a determination to
15	suspend an investigation under this title, or a deter-
16	mination under section 753, the administering au-
17	thority or the Commission, as the case may be, shall
18	publish the facts and conclusions supporting that de-
19	termination, and shall publish notice of that deter-
20	mination in the Federal Register.
21	"(2) Contents of notice or determina-
22	TION.—The notice or determination published under
23	paragraph (1) shall include, to the extent applica-
24	ble—
25	"(A) in the case of a determination of the
26	administering authority—

1	"(i) the names of the exporters or
2	producers of the subject merchandise or,
3	when providing such names is impractica-
4	ble, the countries exporting the subject
5	merchandise to the United States,
6	"(ii) a description of the subject mer-
7	chandise that is sufficient to identify the
8	subject merchandise for customs purposes,
9	"(iii)(I) with respect to a determina-
10	tion in an investigation under subtitle A or
11	section 753 or in a review of a countervail-
12	ing duty order, the amount of the
13	countervailable subsidy established and a
14	full explanation of the methodology used in
15	establishing the amount, and
16	"(II) with respect to a determination
17	in an investigation under subtitle B or in
18	a review of an antidumping duty order, the
19	weighted average dumping margins estab-
20	lished and a full explanation of the meth-
21	odology used in establishing such margins,
22	and
23	"(iv) the primary reasons for the de-
24	termination; and

1	"(B) in the case of a determination of the
2	Commission—
3	"(i) considerations relevant to the de-
4	termination of injury, and
5	"(ii) the primary reasons for the de-
6	termination.
7	"(3) Additional requirements for final
8	DETERMINATIONS.—In addition to the requirements
9	set forth in paragraph (2)—
10	"(A) the administering authority shall in-
11	clude in a final determination described in para-
12	graph (1) an explanation of the basis for its de-
13	termination that addresses relevant arguments,
14	made by interested parties who are parties to
15	the investigation or review (as the case may be),
16	concerning the establishment of dumping or a
17	countervailable subsidy, or the suspension of
18	the investigation, with respect to which the de-
19	termination is made; and
20	"(B) the Commission shall include in a
21	final determination of injury an explanation of
22	the basis for its determination that addresses
23	relevant arguments that are made by interested
24	parties who are parties to the investigation or
25	review (as the case may be) concerning volume.

1	price effects, and impact on the industry of im-
2	ports of the subject merchandise.".
3	SEC. 229. SAMPLING AND AVERAGING; DETERMINATION OF
4	WEIGHTED AVERAGE DUMPING MARGIN.
5	(a) IN GENERAL.—Section 777A (19 U.S.C.
6	1677f-1) is amended to read as follows:
7	"SEC. 777A. SAMPLING AND AVERAGING; DETERMINATION
8	OF WEIGHTED AVERAGE DUMPING MARGIN.
9	"(a) In General.—For purposes of determining the
10	export price (or constructed export price) under section
11	772 or the normal value under section 773, and in carry-
12	ing out reviews under section 751, the administering au-
13	thority may—
14	"(1) use averaging and statistically valid sam-
15	ples, if there is a significant volume of sales of the
16	subject merchandise or a significant number or types
17	of products, and
18	"(2) decline to take into account adjustments
19	which are insignificant in relation to the price or
20	value of the merchandise.
21	"(b) Selection of Averages and Samples.—The
22	authority to select averages and statistically valid samples
23	shall rest exclusively with the administering authority. The
24	administering authority shall, to the greatest extent pos-
25	sible, consult with the exporters and producers regarding

1	the method to be used to select exporters, producers, or
2	types of products under this section.
3	"(c) Determination of Dumping Margin.—
4	"(1) General rule.—In determining weighted
5	average dumping margins under section 733(d),
6	735(c), or 751(a), the administering authority shall
7	determine the individual weighted average dumping
8	margin for each known exporter and producer of the
9	subject merchandise.
10	"(2) Exception.—If it is not practicable to
11	make individual weighted average dumping margin
12	determinations under paragraph (1) because of the
13	large number of exporters or producers involved in
14	the investigation or review, the administering au-
15	thority may determine the weighted average dump-
16	ing margins for a reasonable number of exporters or
17	producers by limiting its examination to—
18	"(A) a sample of exporters, producers, or
19	types of products that is statistically valid
20	based on the information available to the ad-
21	ministering authority at the time of selection,
22	or
23	"(B) exporters and producers accounting
24	for the largest volume of the subject merchan-

1	dise from the exporting country that can be
2	reasonably examined.
3	"(d) Determination of Less Than Fair
4	Value.—
5	"(1) Investigations.—
6	"(A) In GENERAL.—In an investigation
7	under subtitle B, the administering authority
8	shall determine whether the subject merchan-
9	dise is being sold in the United States at less
10	than fair value—
11	"(i) by comparing the weighted aver-
12	age of the normal values to the weighted
13	average of the export prices (and con-
14	structed export prices) for comparable
15	merchandise, or
16	"(ii) by comparing the normal values
17	of individual transactions to the export
18	prices (or constructed export prices) of in-
19	dividual transactions for comparable mer-
20	chandise.
21	"(B) Exception.—The administering au-
22	thority may determine whether the subject mer-
23	chandise is being sold in the United States at
24	less than fair value by comparing the weighted
25	average of the normal values to the export

1	prices (or constructed export prices) of individ-
2	ual transactions for comparable merchandise,
3	if—
4	"(i) there is a pattern of export prices
5	(or constructed export prices) for com-
6	parable merchandise that differ signifi-
7	cantly among purchasers, regions, or peri-
8	ods of time, and
9	"(ii) the administering authority ex-
10	plains why such differences cannot be
11	taken into account using a method de-
12	scribed in paragraph (1)(A)(i) or (ii).
13	"(2) REVIEWS.—In a review under section 751,
14	when comparing export prices (or constructed export
15	prices) of individual transactions to the weighted av-
16	erage price of sales of the foreign like product, the
17	administering authority shall limit its averaging of
18	prices to a period not exceeding the calendar month
19	that corresponds most closely to the calendar month
20	of the individual export sale.".
21	(b) Dumping Margin; Weighted Average Dump-
22	ING MARGIN.—Section 771 (19 U.S.C. 1677), as amended
23	by section 222(i), is amended by adding at the end the
24	following new paragraph:

1 "(35) Dumping margin; weighted average
2 DUMPING MARGIN.—
3 "(A) Dumping Margin.—The term
4 'dumping margin' means the amount by which
5 the normal value exceeds the export price or
6 constructed export price of the subject mer-
7 chandise.
8 "(B) WEIGHTED AVERAGE DUMPING MAR-
9 GIN.—The term 'weighted average dumping
margin' is the percentage determined by divid-
ing the aggregate dumping margins determined
for a specific exporter or producer by the aggre-
gate export prices and constructed export prices
of such exporter or producer.
15 "(C) Magnitude of the margin of
DUMPING.—The magnitude of the margin of
dumping used by the Commission shall be—
18 ''(i) in making a preliminary deter-
mination under section 733(a) in an inves-
tigation (including any investigation in
which the Commission cumulatively as-
sesses the volume and effect of imports
under paragraph $(7)(G)(i)$, the dumping
margin or margins published by the ad-

1	ministering authority in its notice of initi-
2	ation of the investigation;
3	"(ii) in making a final determination
4	under section 735(b), the dumping margin
5	or margins most recently published by the
6	administering authority prior to the closing
7	of the Commission's administrative record;
8	"(iii) in a review under section
9	751(b)(2), the most recent dumping mar-
10	gin or margins determined by the admin-
11	istering authority under section 752(c)(3),
12	if any, or under section 733(b) or 735(a);
13	and
14	"(iv) in a review under section 751(c),
15	the dumping margin or margins deter-
16	mined by the administering authority
17	under section 752(c)(3).".
18	SEC. 230. ANTICIRCUMVENTION.
19	(a) In General.—Subsections (a) and (b) of section
20	$781\ (19\ U.S.C.\ 1677j\ (a)$ and (b)) are amended to read
21	as follows:
22	"(a) Merchandise Completed or Assembled in
23	THE UNITED STATES.—
24	"(1) In general.—If—

1	"(A) merchandise sold in the United
2	States is of the same class or kind as any other
3	merchandise that is the subject of—
4	"(i) an antidumping duty order issued
5	under section 736,
6	"(ii) a finding issued under the Anti-
7	dumping Act, 1921, or
8	"(iii) a countervailing duty order is-
9	sued under section 706 or section 303,
10	"(B) such merchandise sold in the United
11	States is completed or assembled in the United
12	States from parts or components produced in
13	the foreign country with respect to which such
14	order or finding applies,
15	$\mbox{``(C)}$ the process of assembly or completion
16	in the United States is minor or insignificant,
17	and
18	"(D) the value of the parts or components
19	referred to in subparagraph (B) is a significant
20	portion of the total value of the merchandise,
21	the administering authority, after taking into ac-
22	count any advice provided by the Commission under
23	subsection (e), may include within the scope of such
24	order or finding the imported parts or components
25	referred to in subparagraph (B) that are used in the

1	completion or assembly of the merchandise in the
2	United States at any time such order or finding is
3	in effect.
4	"(2) Determination of whether process
5	is minor or insignificant.—In determining
6	whether the process of assembly or completion is
7	minor or insignificant under paragraph (1)(C), the
8	administering authority shall take into account—
9	"(A) the level of investment in the United
10	States,
11	"(B) the level of research and development
12	in the United States,
13	"(C) the nature of the production process
14	in the United States,
15	"(D) the extent of production facilities in
16	the United States, and
17	"(E) whether the value of the processing
18	performed in the United States represents a
19	small proportion of the value of the merchan-
20	dise sold in the United States.
21	"(3) Factors to consider.—In determining
22	whether to include parts or components in a coun-
23	tervailing or antidumping duty order or finding
24	under paragraph (1), the administering authority
25	shall take into account such factors as—

1	"(A) the pattern of trade, including
2	sourcing patterns,
3	"(B) whether the manufacturer or exporter
4	of the parts or components is affiliated with the
5	person who assembles or completes the mer-
6	chandise sold in the United States from the
7	parts or components produced in the foreign
8	country with respect to which the order or find-
9	ing described in paragraph (1) applies, and
10	"(C) whether imports into the United
11	States of the parts or components produced in
12	such foreign country have increased after the
13	initiation of the investigation which resulted in
14	the issuance of such order or finding.
15	"(b) Merchandise Completed or Assembled in
16	OTHER FOREIGN COUNTRIES.—
17	"(1) In general.—If—
18	"(A) merchandise imported into the United
19	States is of the same class or kind as any mer-
20	chandise produced in a foreign country that is
21	the subject of—
22	''(i) an antidumping duty order issued
23	under section 736,
24	"(ii) a finding issued under the Anti-
25	dumping Act, 1921, or

1	''(iii) a countervailing duty order is-
2	sued under section 706 or section 303,
3	"(B) before importation into the United
4	States, such imported merchandise is completed
5	or assembled in another foreign country from
6	merchandise which—
7	"(i) is subject to such order or find-
8	ing, or
9	''(ii) is produced in the foreign coun-
10	try with respect to which such order or
11	finding applies,
12	"(C) the process of assembly or completion
13	in the foreign country referred to in subpara-
14	graph (B) is minor or insignificant,
15	"(D) the value of the merchandise pro-
16	duced in the foreign country to which the anti-
17	dumping duty order applies is a significant por-
18	tion of the total value of the merchandise ex-
19	ported to the United States, and
20	"(E) the administering authority deter-
21	mines that action is appropriate under this
22	paragraph to prevent evasion of such order or
23	finding,
24	the administering authority, after taking into ac-
25	count any advice provided by the Commission under

1	subsection (e), may include such imported merchan-
2	dise within the scope of such order or finding at any
3	time such order or finding is in effect.
4	"(2) Determination of whether process
5	is minor or insignificant.—In determining
6	whether the process of assembly or completion is
7	minor or insignificant under paragraph $(1)(C)$, the
8	administering authority shall take into account—
9	"(A) the level of investment in the foreign
10	country,
11	"(B) the level or research and development
12	in the foreign country,
13	"(C) the nature of the production process
14	in the foreign country,
15	"(D) the extent of production facilities in
16	the foreign country, and
17	"(E) whether the value of the processing
18	performed in the foreign country represents a
19	small proportion of the value of the merchan-
20	dise imported into the United States.
21	"(3) Factors to consider.—In determining
22	whether to include merchandise assembled or com-
23	pleted in a foreign country in a countervailing duty
24	order or an antidumping duty order or finding under

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1	paragraph (1), the administering authority shall
2	take into account such factors as—
3	"(A) the pattern of trade, including
4	sourcing patterns,
5	"(B) whether the manufacturer or exporter
6	of the merchandise described in paragraph
7	(1)(B) is affiliated with the person who uses the
8	merchandise described in paragraph (1)(B) to
9	assemble or complete in the foreign country the
10	merchandise that is subsequently imported into
11	the United States, and
12	"(C) whether imports into the foreign
13	country of the merchandise described in para-
14	graph (1)(B) have increased after the initiation
15	of the investigation which resulted in the issu-
16	ance of such order or finding.".
17	(b) Time Limits for Administering Authority
18	Determinations.—Section 781 (19 U.S.C. 1677j) is
19	amended by adding at the end the following:
20	"(f) Time Limits for Administering Authority
21	DETERMINATIONS.—The administering authority shall, to
22	the maximum extent practicable, make the determinations
23	under this section within 300 days from the date of the
24	initiation of a countervailing duty or antidumping cir-
25	cumvention inquiry under this section.".

1 SEC. 231. EVIDENCE.

2	(a) Conduct of Investigations and Administra-
3	TIVE REVIEWS.—Subtitle D of title VII (19 U.S.C. 1671)
4	is amended by adding at the end the following new section:
5	"SEC. 782. CONDUCT OF INVESTIGATIONS AND ADMINIS-
6	TRATIVE REVIEWS.
7	"(a) Treatment of Voluntary Responses in
8	Countervailing or Antidumping Duty Investiga-
9	TIONS AND REVIEWS.—In any investigation under subtitle
10	A or B or a review under section $751(a)$ in which the ad-
11	ministering authority has, under section $777A(c)(2)$ or
12	section $777A(e)(2)(A)$ (whichever is applicable), limited
13	the number of exporters or producers examined, or deter-
14	mined a single country-wide rate, the administering au-
15	thority shall establish an individual countervailable sub-
16	sidy rate or an individual weighted average dumping mar-
17	gin for any exporter or producer not initially selected for
18	individual examination under such sections who submits
19	to the administering authority the information requested
20	from exporters or producers selected for examination, if—
21	"(1) such information is so submitted by the
22	date specified—
23	"(A) for exporters and producers that were
24	initially selected for examination, or
25	"(B) for the foreign government, in a
26	countervailing duty case where the administer-

1	ing authority has determined a single country-
2	wide rate; and
3	"(2) the number of exporters or producers who
4	have submitted such information is not so large that
5	individual examination of such exporters or produc-
6	ers would be unduly burdensome and inhibit the
7	timely completion of the investigation.
8	"(b) Certification of Submissions.—Any person
9	providing factual information to the administering author-
10	ity or the Commission in connection with a proceeding
11	under this title on behalf of the petitioner or any other
12	interested party shall certify that such information is ac-
13	curate and complete to the best of that person's knowl-
14	edge.
15	"(c) Difficulties in Meeting Requirements.—
16	"(1) Notification by interested party.—
17	If an interested party, promptly after receiving a re-
18	quest from the administering authority or the Com-
19	mission for information, notifies the administering
20	authority or the Commission (as the case may be)
21	that such party is unable to submit the information
22	requested in the requested form and manner, to-
23	gether with a full explanation and suggested alter-
24	native forms in which such party is able to submit
25	the information, the administering authority or the

Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

"(2) Assistance to interested parties.—
The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

"(d) Deficient Submissions.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the com-

1	pletion of investigations or reviews under this title. If that
2	person submits further information in response to such
3	deficiency and either—
4	"(1) the administering authority or the Com-
5	mission (as the case may be) finds that such re-
6	sponse is not satisfactory, or
7	"(2) such response is not submitted within the
8	applicable time limits,
9	then the administering authority or the Commission (as
10	the case may be) may, subject to subsection (e), disregard
11	all or part of the original and subsequent responses.
12	"(e) Use of Certain Information.—In reaching
13	a determination under section 703, 705, 733, 735, 751,
14	or 753 the administering authority and the Commission
15	shall not decline to consider information that is submitted
16	by an interested party and is necessary to the determina-
17	tion but does not meet all the applicable requirements es-
18	tablished by the administering authority or the Commis-
19	sion, if—
20	"(1) the information is submitted by the dead-
21	line established for its submission,
22	"(2) the information can be verified,
23	"(3) the information is not so incomplete that

it cannot serve as a reliable basis for reaching the

applicable determination,

24

25

1	"(4) the interested party has demonstrated that
2	it acted to the best of its ability in providing the in-
3	formation and meeting the requirements established
4	by the administering authority or the Commission
5	with respect to the information, and
6	"(5) the information can be used without undue
7	difficulties.
8	"(f) Nonacceptance of Submissions.—If the ad-
9	ministering authority or the Commission declines to accept
10	into the record any information submitted in an investiga-
11	tion or review under this title, it shall, to the extent prac-
12	ticable, provide to the person submitting the information
13	a written explanation of the reasons for not accepting the
14	information.
15	"(g) Public Comment on Information.—Infor-
16	mation that is submitted on a timely basis to the admin-
17	istering authority or the Commission during the course of
18	a proceeding under this title shall be subject to comment
19	by other parties to the proceeding within such reasonable
20	time as the administering authority or the Commission
21	shall provide. The administering authority and the Com-
22	mission, before making a final determination under section
23	705, 735, 751, or 753 shall cease collecting information
24	and shall provide the parties with a final opportunity to
25	comment on the information obtained by the administer-

- 1 ing authority or the Commission (as the case may be)
- 2 upon which the parties have not previously had an oppor-
- 3 tunity to comment. Comments containing new factual in-
- 4 formation shall be disregarded.
- 5 "(h) TERMINATION OF INVESTIGATION OR REVOCA-
- 6 TION OF ORDER FOR LACK OF INTEREST.—The admin-
- 7 istering authority may—
- 8 "(1) terminate an investigation under subtitle A
- 9 or B with respect to a domestic like product if, prior
- to publication of an order under section 706 or 736,
- the administering authority determines that produc-
- ers accounting for substantially all of the production
- of that domestic like product have expressed a lack
- of interest in issuance of an order; and
- 15 "(2) revoke an order issued under section 706
- or 736 with respect to a domestic like product, or
- terminate an investigation suspended under section
- 18 704 or 734 with respect to a domestic like product,
- if the administering authority determines that pro-
- 20 ducers accounting for substantially all of the produc-
- 21 tion of that domestic like product, have expressed a
- lack of interest in the order or suspended investiga-
- tion.
- 24 "(i) VERIFICATION.—The administering authority
- 25 shall verify all information relied upon in making—

1	"(1) a final determination in an investigation,
2	"(2) a revocation under section 751(d), and
3	"(3) a final determination in a review under
4	section 751(a), if—
5	"(A) verification is timely requested by an
6	interested party as defined in section
7	771(9)(C), (D), (E), (F), or (G), and
8	"(B) no verification was made under this
9	subparagraph during the 2 immediately preced-
10	ing reviews and determinations under section
11	751(a) of the same order, finding, or notice, ex-
12	cept that this clause shall not apply if good
13	cause for verification is shown.".
14	(b) Availability of Nonproprietary Informa-
15	TION.—Section $777(a)(4)$ (19 U.S.C. $1677f(a)(4)$) is
16	amended by striking "may disclose" and inserting "shall
17	disclose".
18	(c) Determinations on the Basis of the Facts
19	AVAILABLE.—Section 776 (19 U.S.C. 1677e) is amended
20	to read as follows:
21	"SEC. 776. DETERMINATIONS ON THE BASIS OF THE FACTS
22	AVAILABLE.
23	"(a) In General.—If—
24	"(1) necessary information is not available on
25	the record, or

1	"(2) an interested party or any other person—
2	"(A) withholds information that has been
3	requested by the administering authority or the
4	Commission under this title,
5	"(B) fails to provide such information by
6	the deadlines for submission of the information
7	or in the form and manner requested, subject to
8	subsections (c)(1) and (e) of section 782,
9	"(C) significantly impedes a proceeding
10	under this title, or
11	"(D) provides such information but the in-
12	formation cannot be verified as provided in sec-
13	tion 782(i),
14	the administering authority and the Commission shall,
15	subject to section $782(d)$, use the facts otherwise available
16	in reaching the applicable determination under this title.
17	"(b) Adverse Inferences.—If the administering
18	authority or the Commission (as the case may be) finds
19	that an interested party has failed to cooperate by not act-
20	ing to the best of its ability to comply with a request for
21	information from the administering authority or the Com-
22	mission, the administering authority or the Commission
23	(as the case may be), in reaching the applicable determina-
24	tion under this title, may use an inference that is adverse
25	to the interests of that party in selecting from among the

1	facts otherwise available. Such adverse inference may in-
2	clude reliance on information derived from—
3	"(1) the petition,
4	"(2) a final determination in the investigation
5	under this title,
6	"(3) any previous review under section 751 or
7	determination under section 753, or
8	"(4) any other information placed on the
9	record.
10	"(c) Corroboration of Secondary Informa-
11	TION.—When the administering authority or the Commis-
12	sion relies on secondary information rather than on infor-
13	mation obtained in the course of an investigation or re-
14	view, the administering authority or the Commission, as
15	the case may be, shall, to the extent practicable, corrobo-
16	rate that information from independent sources that are
17	reasonably at their disposal.".
18	(d) Conforming Amendments.—
19	(1) Section 777(e) (19 U.S.C. 1677f(e)) is re-
20	pealed.
21	(2) The table of contents for title VII is amend-
22	ed—
23	(A) by amending the item relating to sec-
24	tion 776 to read as follows:
	"Sec. 776. Determinations on the basis of the facts available.";

25 and

1	(B) by inserting after the item relating to
2	section 781 the following new item:
	"Sec. 782. Conduct of investigations and administrative reviews.".
3	SEC. 232. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.
4	(a) In General.—Subtitle D of title VII (19 U.S.C.
5	1677 et seq.), as amended by section 231(a), is amended
6	by adding at the end the following new section:
7	"SEC. 783. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.
8	"(a) FILING OF PETITION.—The government of a
9	WTO member may file with the Trade Representative a
10	petition requesting that an investigation be conducted to
11	determine if—
12	"(1) imports from another country are being
13	sold in the United States at less than fair value, and
14	"(2) an industry in the petitioning country is
15	materially injured by reason of those imports.
16	"(b) Initiation.—The Trade Representative, after
17	consultation with the administering authority and the
18	Commission and obtaining the approval of the WTO
19	Council for Trade in Goods, shall determine whether to
20	initiate an investigation described in subsection (a).
21	"(c) Determinations.—Upon initiation of an inves-
22	tigation under this section, the Trade Representative shall
23	request the following determinations be made according
24	to substantive and procedural requirements specified by

1	the Trade Representative, notwithstanding any other pro-
2	vision of this title:
3	"(1) The administering authority shall deter-
4	mine whether imports into the United States of the
5	subject merchandise are being sold at less than fair
6	value.
7	"(2) The Commission shall determine whether
8	an industry in the petitioning country is materially
9	injured by reason of imports of the subject merchan-
10	dise into the United States.
11	"(d) Public Comment.—An opportunity for public
12	comment shall be provided, as appropriate—
13	"(1) by the Trade Representative, in making
14	the determination required by subsection (b), and
15	"(2) by the administering authority and the
16	Commission, in making the determination required
17	by subsection (c).
18	"(e) Issuance of Order.—If the administering au-
19	thority makes an affirmative determination under para-
20	graph (1) of subsection (c), and the Commission makes
21	an affirmative determination under paragraph (2) of sub-
22	section (c), the administering authority shall issue an anti-
23	dumping duty order in accordance with section 736 and
24	take such other actions as are required by section 736.

1	"(f) Reviews of Determinations.—For purposes
2	of review under section 516A or review under section 751,
3	if an order is issued under subsection (d), the final deter-
4	minations of the administering authority and the Commis-
5	sion under this section shall be treated as final determina-
6	tions made under section 735.
7	"(g) Access to Information.—Section 777 shall
8	apply to investigations under this section, to the extent
9	specified by the Trade Representative, after consultation
10	with the administering authority and the Commission.".
11	(b) Conforming Amendment.—The table of con-
12	tents for title VII, as amended by section 231(d)(2), is
13	amended by adding after the item relating to section 782
14	the following new item:
	"Sec. 783. Antidumping petitions by third countries.".
15	SEC. 233. CONFORMING AMENDMENTS.
16	(a) Terminology.—
17	(1) NORMAL VALUE.—Each of the following
18	sections is amended by striking "foreign market
19	value" each place it appears in the text and in the
20	heading and inserting "normal value":
21	(A) Section 731 (19 U.S.C. 1673).
22	(B) Section 734 (19 U.S.C. 1673c).
23	(C) Section 736 (19 U.S.C. 1673e).
24	(D) Section 739 (19 U.S.C. 1673h)

(E) Section 780 (19 U.S.C. 1677i).

1	(2) Export price.—
2	(A) IN GENERAL.—Each of the following
3	sections is amended by striking "United States
4	price" each place it appears in the text and in
5	the heading and inserting "export price (or the
6	constructed export price)'':
7	(i) Section 731 (19 U.S.C. 1673).
8	(ii) Section 734 (19 U.S.C. 1673c).
9	(iii) Section 736 (19 U.S.C. 1673e).
10	(iv) Section 738 (19 U.S.C. 1673g).
11	(v) Section 739 (19 U.S.C. 1673h).
12	(vi) Section 780 (19 U.S.C. 1677i).
13	(B) Exporter's sales price.—Section
14	738(b)(3) (19 U.S.C. 1673g(b)(3)) is amended
15	by striking "exporter's sales price" and insert-
16	ing "constructed export price".
17	(3) Domestic like product.—
18	(A) Each of the following sections is
19	amended by striking "like product" each place
20	it appears in the text and in the heading and
21	inserting "domestic like product":
22	(i) Section 771(4)(C) and (D) (19
23	U.S.C. 1677(4)(C) and (D)).
24	(ii) Section 771(7)(C)(iii)(IV) (19
25	U.S.C. 1677(7)(C)(iii)(IV)).

1	(iii) Section 771(9) (19 U.S.C.
2	1677(9)).
3	(iv) Section 771(10) (19 U.S.C.
4	1677(10)).
5	(B) Sections $771(7)(B)(i)(II)$ and (III)
6	and section 771(7)(C)(ii)(I) (19 U.S.C.
7	1677(7)(B)(i)(II) and (III) and $(C)(ii)(I))$ are
8	amended by striking "like products" and insert-
9	ing "domestic like products".
10	(4) Foreign like product.—Section 771(16)
11	(19 U.S.C. 1677(16)) is amended—
12	(A) by striking "such or similar merchan-
13	dise" in the text and inserting "foreign like
14	product", and
15	(B) by amending the heading to read as
16	follows: "Foreign like product.".
17	(5) Subject merchandise.—
18	(A) Section 701(d) (19 U.S.C. 1671(d)) is
19	amended by striking "a class or kind of mer-
20	chandise subject to a countervailing duty inves-
21	tigation" and inserting "subject merchandise".
22	(B) Section 702(e) (19 U.S.C. 1671a(e)) is
23	amended by striking "class or kind of merchan-
24	dise that is the subject of the investigation"

1	each place it appears and inserting "subject
2	merchandise''.
3	(C) Section 703(b)(1) (19 U.S.C.
4	1671b(b)(1)) is amended by striking "merchan-
5	dise which is the subject of the investigation'
6	and inserting "subject merchandise".
7	(D) Section 704(a)(2)(A) (19 U.S.C.
8	1671c(a)(2)(A)) is amended by striking "mer-
9	chandise that is subject to the investigation'
10	and inserting "subject merchandise".
11	(E) Section 704(b) (19 U.S.C. 1671c(b))
12	is amended by striking "merchandise which is
13	the subject of the investigation" and inserting
14	''subject merchandise''.
15	(F) Section 704(c)(1) (19 U.S.C.
16	1671c(c)(1)) is amended by striking "merchan-
17	dise which is the subject of the investigation'
18	and inserting "subject merchandise".
19	(G) Section 704(c)(2) (19 U.S.C.
20	1671c(c)(2)) is amended by striking "merchan-
21	dise which is the subject of the investigation'
22	and inserting "subject merchandise".
23	(H) Section 704(c)(3) (19 U.S.C.
24	1671c(c)(3)) is amended by striking "merchan-

1	dise which is the subject of an investigation"
2	and inserting "subject merchandise".
3	(I) Section 704(d)(3) (19 U.S.C.
4	1671c(d)(3)) is amended by striking "merchan-
5	dise covered by such agreement" and inserting
6	"subject merchandise".
7	(J) Section 704(f)(1)(A) (19 U.S.C.
8	1671c(f)(1)(A)) is amended by striking "mer-
9	chandise which is the subject of the investiga-
10	tion" and inserting "subject merchandise".
11	(K) Subparagraphs (A)(i) and (B) of sec-
12	tion $704(f)(2)$ (19 U.S.C. $1671c(f)(2)(A)(i)$ and
13	(B)) are amended by striking "merchandise
14	which is the subject of the investigation" each
15	place it appears and inserting "subject mer-
16	chandise''.
17	(L) Paragraphs (2) and (3) of section
18	704(h) (19 U.S.C. 1671c(h) (2) and (3)) are
19	amended by striking "merchandise which is the
20	subject of the investigation" each place it ap-
21	pears and inserting "subject merchandise".
22	(M) Section $704(j)$ (19 U.S.C. $1671c(j)$) is
23	amended by striking "merchandise which is the
24	subject of the investigation" and inserting
25	"subject merchandise".

1	(N) Section 705(a)(1) (19 U.S.C.
2	1671d(a)(1)) is amended by striking "the mer-
3	chandise" and inserting "the subject merchan-
4	dise''.
5	(O) Section 706(a)(2) (19 U.S.C.
6	1671e(a)(2)), as redesignated by section 265, is
7	amended by striking "class or kind of merchan-
8	dise to which it applies" and inserting "subject
9	merchandise''.
10	(P) Section 732(e)(1) (19 U.S.C.
11	1673a(e)(1)) is amended by striking "class or
12	kind of the merchandise which is the subject of
13	the investigation" and inserting "the subject
14	merchandise''.
15	(Q) Section 732(e)(2) (19 U.S.C.
16	1673a(e)(2)) is amended by striking "merchan-
17	dise which is the subject of the investigation"
18	and inserting "subject merchandise".
19	(R) Section 732(e) (19 U.S.C. 1673a(e)) is
20	amended by striking "class or kind of merchan-
21	dise that is the subject of the investigation"
22	each place it appears and inserting "subject
23	merchandise''.
24	(S) Section 734(a)(2)(A) (19 U.S.C
25	1673c(a)(2)(A)) is amended by striking "mer-

1	chandise that is subject to the investigation'
2	and inserting "subject merchandise".
3	(T) Subsections (b), (c)(1), (f)(1)(A)
4	(f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j) of
5	section 734 (19 U.S.C 1673c(b), (c)(1)
6	(f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3)
7	and (j)) are amended by striking "merchandise
8	which is the subject of the investigation" each
9	place it appears and inserting "subject mer-
10	chandise''.
11	(U) Section 734(f)(2)(B) (19 U.S.C.
12	1673c(f)(2)(B)) is amended by striking "mer-
13	chandise subject to the investigation" and in-
14	serting ''subject merchandise''.
15	(V) Section 735(a)(1) (19 U.S.C.
16	1673d(a)(1)) is amended by striking "merchan-
17	dise which was the subject of the investigation'
18	and inserting "subject merchandise".
19	(W) Section 736(a)(2) (19 U.S.C.
20	1673e(a)(2)) is amended by striking "class or
21	kind of merchandise to which it applies" and
22	inserting "subject merchandise".
23	(X) Section 736(b)(1) (19 U.S.C.
24	1673e(b)(1)) is amended by striking "merchan-

1	dise subject to the antidumping duty order
2	and inserting "subject merchandise".
3	(Y) Section 736(b)(2) (19 U.S.C.
4	1673e(b)(2)) is amended by striking "merchan-
5	dise subject to an antidumping duty order" and
6	inserting "subject merchandise".
7	(Z) Section 762(a)(1) (19 U.S.C.
8	1676a(a)(1)) is amended by striking "merchan-
9	dise subject to the agreement" and inserting
10	''subject merchandise''.
11	(AA) Section 762(b)(2) (19 U.S.C.
12	1676a(b)(2)) is amended by striking "merchan-
13	dise subject to the order" and inserting "sub-
14	ject merchandise''.
15	(BB) Section 771(7)(B)(i)(I) (19 U.S.C.
16	1677(7)(B)(i)(I) is amended by striking "mer-
17	chandise which is the subject of the investiga-
18	tion" and inserting "subject merchandise".
19	(CC) Section 771(9)(A) (19 U.S.C.
20	1677(9)(A)) is amended by striking "merchan-
21	dise which is the subject of an investigation
22	under this title" and inserting "subject mer-
23	chandise''.
24	(DD) Section 771(16)(A) (19 U.S.C.
25	1677(16)(A)) is amended by striking "merchan-

1	dise which is the subject of an investigation'
2	and inserting "subject merchandise".
3	(EE) Section 771(16)(B)(i) (19 U.S.C.
4	1677(16)(B)(i)) is amended by striking "mer-
5	chandise which is the subject of an investiga-
6	tion" and inserting "subject merchandise".
7	(FF) Section 771(17) (19 U.S.C.
8	1677(17)) is amended by striking "merchandise
9	which is the subject of the investigation" and
10	inserting "subject merchandise".
11	(GG) Section 771A(c) (19 U.S.C. 1677-
12	1(c)) is amended by striking "merchandise
13	under investigation'' and inserting 'subject
14	merchandise''.
15	(6) INITIATE.—(A) Each of the following sec-
16	tions is amended by striking "commenced" and in-
17	serting "initiated":
18	(i) Section 702(a).
19	(ii) Section 702(b)(1).
20	(iii) Section 703(b)(1).
21	(iv) Section 703(c)(1).
22	(v) Section 732(a)(1).
23	(vi) Section 732(a)(2)(D).
24	(vii) Section 732(b)(1).
25	(viii) Section 733(b)(1)(A) and (B).

1	(ix) Section 733(b)(2).
2	(x) Section 733(c)(1).
3	(B) Sections $703(g)(1)$ and $733(b)(2)$ are each
4	amended by striking "commencement" and inserting
5	"initiation".
6	(C) Section 732(a)(2)(B) is amended by strik-
7	ing "commence" and inserting "initiate".
8	(7) TECHNICAL AMENDMENTS.—The table of
9	contents for title VII is amended—
10	(A) by amending the item relating to sec-
11	tion 772 to read as follows:
	"Sec. 772. Export price and constructed export price.";
12	(B) by striking "Foreign market value" in
13	the item relating to section 773 and inserting
14	"Normal value", and
15	(C) by inserting after the item relating to
16	section 708 the following new item:
	"Sec. 709. Conditional payment of countervailing duty.".
17	(b) OTHER CONFORMING AMENDMENTS.—
18	(1) WTO MEMBER.—Section 771(7)(F)(iii) (19
19	U.S.C. 1677(7)(F)(iii)) is amended—
20	(A) in subclause (I), by striking "GATT
21	member" and inserting "WTO member"; and
22	(B) in subclause (II)—

1	(i) in the subclause heading, by strik-
2	ing "GATT MEMBER" and inserting
3	"WTO MEMBER";
4	(ii) by striking "GATT member" and
5	inserting "WTO member"; and
6	(iii) by striking "signatory" and all
7	that follows through "measures" and in-
8	serting "WTO member".
9	(2) Administering authority.—Section
10	771(1) (19 U.S.C. 1677(1)) is amended by striking
11	"the Treasury" and inserting "Commerce".
12	SEC. 234. APPLICATION TO CANADA AND MEXICO.
13	Pursuant to article 1902 of the North American Free
14	Trade Agreement and section 408 of the North American
15	Free Trade Agreement Implementation Act, the amend-
16	ments made by this title shall apply with respect to goods
17	from Canada and Mexico.
18	Subtitle B—Subsidies Provisions
19	PART 1—COUNTERVAILABLE SUBSIDIES
20	SEC. 251. COUNTERVAILABLE SUBSIDY.
21	(a) IN GENERAL.—Section 771 (19 U.S.C. 1677) is
22	amended by striking paragraph (5) and inserting the fol-
23	lowing:
24	"(5) Countervailable subsidy.—

1	"(A) IN GENERAL.—Except as provided in
2	paragraph (5B), a countervailable subsidy is a
3	subsidy described in this paragraph which is
4	specific as described in paragraph (5A).
5	"(B) Subsidy described.—A subsidy is
6	described in this paragraph in the case in which
7	an authority—
8	"(i) provides a financial contribution,
9	"(ii) provides any form of income or
10	price support within the meaning of Article
11	XVI of the GATT 1994, or
12	"(iii) makes a payment to a funding
13	mechanism to provide a financial contribu-
14	tion, or entrusts or directs a private entity
15	to make a financial contribution, if provid-
16	ing the contribution would normally be
17	vested in the government and the practice
18	does not differ in substance from practices
19	normally followed by governments,
20	to a person and a benefit is thereby conferred.
21	For purposes of this paragraph and paragraphs
22	(5A) and (5B), the term 'authority' means a
23	government of a country or any public entity
24	within the territory of the country.

I	(C) OTHER FACTORS.—The determina-
2	tion of whether a subsidy exists shall be made
3	without regard to whether the recipient of the
4	subsidy is publicly or privately owned and with-
5	out regard to whether the subsidy is provided
6	directly or indirectly on the manufacture, pro-
7	duction, or export of merchandise. The admin-
8	istering authority is not required to consider
9	the effect of the subsidy in determining whether
10	a subsidy exists under this paragraph.
11	"(D) Financial contribution.—The
12	term 'financial contribution' means—
13	"(i) the direct transfer of funds, such
14	as grants, loans, and equity infusions, or
15	the potential direct transfer of funds or li-
16	abilities, such as loan guarantees,
17	"(ii) foregoing or not collecting reve-
18	nue that is otherwise due, such as granting
19	tax credits or deductions from taxable in-
20	come,
21	''(iii) providing goods or services,
22	other than general infrastructure, or
23	"(iv) purchasing goods.

1	"(E) Benefit conferred.—A benefit
2	shall normally be treated as conferred where
3	there is a benefit to the recipient, including—
4	"(i) in the case of an equity infusion,
5	if the investment decision is inconsistent
6	with the usual investment practice of pri-
7	vate investors, including the practice re-
8	garding the provision of risk capital, in the
9	country in which the equity infusion is
10	made,
11	"(ii) in the case of a loan, if there is
12	a difference between the amount the recipi-
13	ent of the loan pays on the loan and the
14	amount the recipient would pay on a com-
15	parable commercial loan that the recipient
16	could actually obtain on the market,
17	"(iii) in the case of a loan guarantee,
18	if there is a difference, after adjusting for
19	any difference in guarantee fees, between
20	the amount the recipient of the guarantee
21	pays on the guaranteed loan and the
22	amount the recipient would pay for a com-
23	parable commercial loan if there were no
24	guarantee by the authority, and

ices are provided, if such goods or services
are provided for less than adequate remuneration, and in the case where goods are
purchased, if such goods are purchased for
more than adequate remuneration.

For purposes of clause (iv), the adequacy of remuneration shall be determined in relation to

For purposes of clause (iv), the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.

"(F) Change in ownership.—A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administering authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

"(5A) Specificity.—

1	"(A) IN GENERAL.—A subsidy is specific if
2	it is an export subsidy described in subpara-
3	graph (B) or an import substitution subsidy de-
4	scribed in subparagraph (C), or if it is deter-
5	mined to be specific pursuant to subparagraph
6	(D).
7	"(B) Export subsidy.—An export sub-
8	sidy is a subsidy that is, in law or in fact, con-
9	tingent upon export performance, alone or as 1
10	of 2 or more conditions.
11	"(C) Import substitution subsidy.—
12	An import substitution subsidy is a subsidy that
13	is contingent upon the use of domestic goods
14	over imported goods, alone or as 1 of 2 or more
15	conditions.
16	"(D) Domestic subsidy.—In determining
17	whether a subsidy (other than a subsidy de-
18	scribed in subparagraph (B) or (C)) is a spe-
19	cific subsidy, in law or in fact, to an enterprise
20	or industry within the jurisdiction of the au-
21	thority providing the subsidy, the following
22	guidelines shall apply:
23	"(i) Where the authority providing the
24	subsidy, or the legislation pursuant to
25	which the authority operates, expressly

1	limits access to the subsidy to an enter-
2	prise or industry, the subsidy is specific as
3	a matter of law.
4	''(ii) Where the authority providing
5	the subsidy, or the legislation pursuant to
6	which the authority operates, establishes
7	objective criteria or conditions governing
8	the eligibility for, and the amount of, a
9	subsidy, the subsidy is not specific as a
10	matter of law, if—
11	"(I) eligibility is automatic,
12	"(II) the criteria or conditions
13	for eligibility are strictly followed, and
14	"(III) the criteria or conditions
15	are clearly set forth in the relevant
16	statute, regulation, or other official
17	document so as to be capable of ver-
18	ification.
19	For purposes of this clause, the term 'ob-
20	jective criteria or conditions' means criteria
21	or conditions that are neutral and that do
22	not favor one enterprise or industry over
23	another.
24	"(iii) Where there are reasons to be-
25	lieve that a subsidy may be specific as a

1	matter of fact, the subsidy is specific if one
2	or more of the following factors exist:
3	"(I) The actual recipients of the
4	subsidy, whether considered on an en-
5	terprise or industry basis, are limited
6	in number.
7	"(II) An enterprise or industry is
8	a predominant user of the subsidy.
9	"(III) An enterprise or industry
10	receives a disproportionately large
11	amount of the subsidy.
12	"(IV) The manner in which the
13	authority providing the subsidy has
14	exercised discretion in the decision to
15	grant the subsidy indicates that an
16	enterprise or industry is favored over
17	others.
18	In evaluating the factors set forth in
19	subclauses (I), (II), (III), and (IV), the ad-
20	ministering authority shall take into ac-
21	count the extent of diversification of eco-
22	nomic activities within the jurisdiction of
23	the authority providing the subsidy, and
24	the length of time during which the sub-
25	sidy program has been in operation.

1	"(iv) Where a subsidy is limited to an
2	enterprise or industry located within a des-
3	ignated geographical region within the ju-
4	risdiction of the authority providing the
5	subsidy, the subsidy is specific.
6	For purposes of this paragraph and paragraph (5B)
7	any reference to an enterprise or industry is a ref-
8	erence to a foreign enterprise or foreign industry
9	and includes a group of such enterprises or indus-
10	tries.
11	"(5B) CATEGORIES OF NONCOUNTERVAILABLE
12	SUBSIDIES.—
13	"(A) IN GENERAL.—Notwithstanding the
14	provisions of paragraphs (5) and (5A), in the
15	case of merchandise imported from a Subsidies
16	Agreement country, a subsidy shall be treated
17	as noncountervailable if the administering au-
18	thority determines in an investigation under
19	subtitle A or a review under subtitle C that the
20	subsidy meets all of the criteria described in
21	subparagraph (B), (C), or (D), as the case may
22	be, or the provisions of subparagraph (E)(i)
23	apply.
24	"(B) Research subsidy.—

1	"(i) IN GENERAL.—Except for a sub-
2	sidy provided on the manufacture, produc-
3	tion, or export of civil aircraft, a subsidy
4	for research activities conducted by a per-
5	son, or by a higher education or research
6	establishment on a contract basis with a
7	person, shall be treated as
8	noncountervailable, if the subsidy covers
9	not more than 75 percent of the costs of
10	industrial research or not more than 50
11	percent of the costs of precompetitive de-
12	velopment activity, and such subsidy is
13	limited exclusively to—
14	"(I) the costs of researchers,
15	technicians, and other supporting
16	staff employed exclusively in the re-
17	search activity,
18	"(II) the costs of instruments,
19	equipment, land, or buildings that are
20	used exclusively and permanently (ex-
21	cept when disposed of on a commer-
22	cial basis) for the research activity,
23	"(III) the costs of consultancy
24	and equivalent services used exclu-
25	sively for the research activity, includ-

1	ing costs for bought-in research, tech-
2	nical knowledge, and patents,
3	"(IV) additional overhead costs
4	incurred directly as a result of the re-
5	search activity, and
6	"(V) other operating costs (such
7	as materials and supplies) incurred di-
8	rectly as a result of the research activ-
9	ity.
10	"(ii) Definitions.—For purposes of
11	this subparagraph—
12	"(I) Industrial research.—
13	The term 'industrial research' means
14	planned search or critical investiga-
15	tion aimed at the discovery of new
16	knowledge, with the objective that
17	such knowledge may be useful in de-
18	veloping new products, processes, or
19	services, or in bringing about a sig-
20	nificant improvement to existing prod-
21	ucts, processes, or services.
22	"(II) Precompetitive devel-
23	OPMENT ACTIVITY.—The term
24	'precompetitive development activity'
25	means the translation of industrial re-

1	search findings into a plan, blueprint,
2	or design for new, modified, or im-
3	proved products, processes, or serv-
4	ices, whether intended for sale or use,
5	including the creation of a first proto-
6	type that would not be capable of
7	commercial use. The term also may
8	include the conceptual formulation
9	and design of products, processes, or
10	services alternatives and initial dem-
11	onstration or pilot projects, if these
12	same projects cannot be converted or
13	used for industrial application or com-
14	mercial exploitation. The term does
15	not include routine or periodic alter-
16	ations to existing products, production
17	lines, manufacturing processes, serv-
18	ices, or other ongoing operations even
19	if those alterations may represent im-
20	provements.
21	"(iii) Calculation rules.—
22	"(I) In general.—In the case
23	of a research activity that spans both
24	industrial research and precompetitive
25	development activity, the allowable

1	level of the noncountervailable subsidy
2	shall not exceed 62.5 percent of the
3	costs set forth in subclauses (I), (II),
4	(III), (IV), and (V) of clause (i).
5	"(II) Total eligible costs.—
6	The allowable level of a
7	noncountervailable subsidy described
8	in clause (i) shall be based on the
9	total eligible costs incurred over the
10	duration of a particular project.
11	"(C) Subsidy to disadvantaged re-
12	GIONS.—
13	"(i) In general.—A subsidy pro-
14	vided, pursuant to a general framework of
15	regional development, to a person located
16	in a disadvantaged region within a country
17	shall be treated as noncountervailable, if it
18	is not specific (within the meaning of para-
19	graph (5A)) within eligible regions and if
20	the following conditions are met:
21	"(I) Each region identified as
22	disadvantaged within the territory of
23	a country is a clearly designated, con-
24	tiguous geographical area with a de-

1	finable economic and administrative
2	identity.
3	"(II) Each region is considered a
4	disadvantaged region on the basis of
5	neutral and objective criteria indicat-
6	ing that the region is disadvantaged
7	because of more than temporary cir-
8	cumstances, and such criteria are
9	clearly stated in the relevant statute,
10	regulation, or other official document
11	so as to be capable of verification.
12	"(III) The criteria described in
13	subclause (II) include a measurement
14	of economic development.
15	"(IV) Programs provided within
16	a general framework of regional devel-
17	opment include ceilings on the amount
18	of assistance that can be granted to a
19	subsidized project. Such ceilings are
20	differentiated according to the dif-
21	ferent levels of development of as-
22	sisted regions, and are expressed in
23	terms of investment costs or costs of
24	job creation. Within such ceilings, the
25	distribution of assistance is suffi-

1	ciently broad and even to avoid the
2	predominant use of a subsidy by, or
3	the provision of disproportionately
4	large amounts of a subsidy to, an en-
5	terprise or industry as described in
6	paragraph (5A)(D).
7	"(ii) Measurement of economic
8	DEVELOPMENT.—For purposes of clause
9	(i), the measurement of economic develop-
10	ment shall be based on one or more of the
11	following factors:
12	"(I) Per capita income, house-
13	hold per capita income, or per capita
14	gross domestic product that does not
15	exceed 85 percent of the average for
16	the country subject to investigation or
17	review.
18	"(II) An unemployment rate that
19	is at least 110 percent of the average
20	unemployment rate for the country
21	subject to investigation or review.
22	The measurement of economic development
23	shall cover a 3-year period, but may be a
24	composite measurement and may include

1	factors other than those set forth in this
2	clause.
3	"(iii) Definitions.—For purposes of
4	this subparagraph—
5	"(I) GENERAL FRAMEWORK OF
6	REGIONAL DEVELOPMENT.—The term
7	'general framework of regional devel-
8	opment' means that the regional sub-
9	sidy programs are part of an inter-
10	nally consistent and generally applica-
11	ble regional development policy, and
12	that regional development subsidies
13	are not granted in isolated geographi-
14	cal points having no, or virtually no,
15	influence on the development of a re-
16	gion.
17	"(II) NEUTRAL AND OBJECTIVE
18	CRITERIA.—The term 'neutral and ob-
19	jective criteria' means criteria that do
20	not favor certain regions beyond what
21	is appropriate for the elimination or
22	reduction of regional disparities within
23	the framework of the regional develop-
24	ment policy.

1	(D) SUBSIDY FOR ADAPTATION OF EXIST-
2	ING FACILITIES TO NEW ENVIRONMENTAL RE-
3	QUIREMENTS.—
4	"(i) In general.—A subsidy that is
5	provided to promote the adaptation of ex-
6	isting facilities to new environmental re-
7	quirements that are imposed by statute or
8	by regulation, and that result in greater
9	constraints and financial burdens on the
10	recipient of the subsidy, shall be treated as
11	noncountervailable, if the subsidy—
12	"(I) is a one-time nonrecurring
13	measure,
14	"(II) is limited to 20 percent of
15	the cost of adaptation,
16	"(III) does not cover the cost of
17	replacing and operating the subsidized
18	investment, a cost that must be fully
19	borne by the recipient,
20	"(IV) is directly linked and pro-
21	portionate to the recipient's planned
22	reduction of nuisances and pollution,
23	and does not cover any manufacturing
24	cost savings that may be achieved,
25	and

1	"(V) is available to all persons
2	that can adopt the new equipment or
3	production processes.
4	"(ii) Existing facilities.—For pur-
5	poses of this subparagraph, the term 'ex-
6	isting facilities' means facilities that have
7	been in operation for at least 2 years be-
8	fore the date on which the new environ-
9	mental requirements are imposed.
10	"(E) Notified subsidy program.—
11	"(i) GENERAL RULE.—If a subsidy is
12	provided pursuant to a program that has
13	been notified in accordance with Article
14	8.3 of the Subsidies Agreement, the sub-
15	sidy shall be treated as noncountervailable
16	and shall not be subject to investigation or
17	review under this title.
18	"(ii) Exception.—Notwithstanding
19	clause (i), a subsidy shall be treated as
20	countervailable if—
21	"(I) the Trade Representative
22	notifies the administering authority
23	that a determination has been made
24	pursuant to Article 8.4 or 8.5 of the
25	Subsidies Agreement that the subsidy,

1	or the program pursuant to which the
2	subsidy was provided, does not satisfy
3	the conditions and criteria of Article
4	8.2 of the Subsidies Agreement; and
5	"(II) the subsidy is specific with-
6	in the meaning of paragraph (5A).
7	"(F) CERTAIN SUBSIDIES ON AGRICUL-
8	TURAL PRODUCTS.—Domestic support meas-
9	ures that are provided with respect to products
10	listed in Annex 1 to the Agreement on Agri-
11	culture, and that the administering authority
12	determines conform fully to the provisions of
13	Annex 2 to that Agreement, shall be treated as
14	noncountervailable. Upon request by the admin-
15	istering authority, the Trade Representative
16	shall provide advice regarding the interpretation
17	and application of Annex 2.
18	"(G) Provisional application.—
19	"(i) Subparagraphs (B), (C), (D), and
20	(E) shall not apply on or after the first
21	day of the month that is 66 months after
22	the WTO Agreement enters into force, un-
23	less the provisions of such subparagraphs
24	are extended pursuant to section 282(c) of
25	the Uruguay Round Agreements Act.

1	''(ii) Subparagraph (F) shall not
2	apply to imports from a WTO member
3	country at the end of the 9-year period be-
4	ginning on January 1, 1995. The Trade
5	Representative shall determine the precise
6	termination date for each WTO member
7	country in accordance with paragraph (i)
8	of Article 1 of the Agreement on Agri-
9	culture and such date shall be notified to
10	the administering authority.".
11	(b) Net Countervailable Subsidy.—Section
12	771(6) (19 U.S.C. 1677(6)) is amended by inserting
13	"countervailable" before "subsidy" each place it appears
14	in the text and in the heading.
15	PART 2—REPEAL OF SECTION 303 AND
16	CONFORMING AMENDMENTS
17	SEC. 261. REPEAL OF SECTION 303.
18	(a) IN GENERAL.—Section 303 of the Tariff Act of
19	1930 (19 U.S.C. 1303) is repealed effective on the effec-
20	tive date of this title.
21	(b) Savings Provisions.—
22	(1) Continuing effect of legal docu-
23	MENTS.—All orders, determinations, and other ad-
24	ministrative actions—

1	(A) which have been issued pursuant to an
2	investigation conducted under section 303 of
3	the Tariff Act of 1930, and
4	(B) which are in effect on the effective
5	date of this title, or were final before such date
6	and are to become effective on or after such
7	date,
8	shall continue in effect according to their terms until
9	modified, terminated, superseded, set aside, or re-
10	voked in accordance with law by the administering
11	authority, the International Trade Commission, or a
12	court of competent jurisdiction, or by operation of
13	law. Except as provided in paragraph (3), such or-
14	ders or determinations shall be subject to review
15	under section 751 of the Tariff Act of 1930 and, to
16	the extent applicable, investigation under section
17	753 of such Act (as added by this title).
18	(2) PROCEEDINGS NOT AFFECTED.—The provi-
19	sions of subsection (a) shall not affect any proceed-
20	ings, including notices of proposed rulemaking,
21	pending before the administering authority or the
22	International Trade Commission on the effective
23	date of this title with respect to such section 303.
24	Orders shall be issued in such proceedings, appeals

shall be taken therefrom, and payments shall be

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made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) Suits not affect the review pursuant to subsection (a) shall not affect the review pursuant to section 516A of the Tariff Act of 1930 of a countervailing duty order issued pursuant to an investigation conducted under section 303 of such Act or a review of a countervailing duty order issued under section 751 of such Act, if such review is pending

1	or the time for filing such review has not expired or
2	the effective date of this title.
3	(c) Definition of Administering Authority.—
4	For purposes of this section, the term "administering au-
5	thority" has the meaning given such term by section
6	771(1) of the Tariff Act of 1930.
7	(d) Conforming Amendments.—
8	(1) In general.—
9	(A) Amendments to trade act of
10	1974.—
11	(i) Section 331(d)(3) of the Trade Act
12	of 1974 (19 U.S.C. 1303 note) is repealed
13	(ii) Section 152(a)(2) of the Trade
14	Act of 1974 (19 U.S.C. 2192(a)(2)) is
15	amended by striking "(A) in the case of
16	and all that follows through "(B)".
17	(iii) Section 154(a) of the Trade Act
18	of 1974 (19 U.S.C. 2194(a)) is amended
19	by striking "or section 303(e) of the Tariff
20	Act of 1930,".
21	(B) Amendments to tariff act of
22	1930.—The following sections of the Tariff Act
23	of 1930 are amended:
24	(i) Section 315(d) (19 U.S.C.
25	1315(d)) is amended by inserting "(as in

1	effect on the day before the effective date
2	of title II of the Uruguay Round Agree-
3	ments Act) or section 701" after "section
4	303".
5	(ii) Section 337(b)(3) (19 U.S.C.
6	1337(b)(3)) is amended—
7	(I) by striking "of section 303 or
8	subtitle B of title VII of the Tariff
9	Act of 1930" and inserting "of sub-
10	title B of title VII of this Act",
11	(II) by striking "section 303,
12	671, or 673" and inserting "section
13	701 or 731",
14	(III) by striking "section 303,
15	701," and inserting "section 701",
16	(IV) by striking "of the Secretary
17	under section 303 of this Act or", and
18	(V) by striking "matter within
19	such section 303, 701, or" and insert-
20	ing "matter within such section 701
21	or''.
22	(iii) Section 701 (19 U.S.C. 1671) is
23	amended by striking subsection (f).

1	(iv) Section $780(c)(1)$ (19 U.S.C.
2	1677i(c)(1) is amended by striking ",
3	732(a), or 303" and inserting "or 732(a)".
4	(C) OTHER REFERENCES.—Any reference
5	to section 303 in any other Federal law, Execu-
6	tive order, rule, or regulation shall be treated as
7	a reference to section 303 of the Tariff Act of
8	1930 as in effect on the day before the effective
9	date of title II of this Act.
10	(2) Effective date.—The amendments made
11	by this subsection shall take effect on the effective
12	date of this title.
13	SEC. 262. IMPOSITION OF COUNTERVAILING DUTIES.
13 14	SEC. 262. IMPOSITION OF COUNTERVAILING DUTIES. Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a),
14	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a),
14 15	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows:
14 15 16	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If—
14 15 16 17	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If— "(1) the administering authority determines
14 15 16 17	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If— "(1) the administering authority determines that the government of a country or any public en-
14 15 16 17 18	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If— "(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, discountry."
14 15 16 17 18 19 20	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If— "(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with
14 15 16 17 18 19 20 21	Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows: "(a) GENERAL RULE.—If— "(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of

1	"(2) in the case of merchandise imported from
2	a Subsidies Agreement country, the Commission de-
3	termines that—
4	"(A) an industry in the United States—
5	"(i) is materially injured, or
6	"(ii) is threatened with material in-
7	jury, or
8	"(B) the establishment of an industry in
9	the United States is materially retarded,
10	by reason of imports of that merchandise or by rea-
11	son of sales (or the likelihood of sales) of that mer-
12	chandise for importation,
13	then there shall be imposed upon such merchandise a
14	countervailing duty, in addition to any other duty imposed,
15	equal to the amount of the net countervailable subsidy.
16	For purposes of this subsection and section 705(b)(1), a
17	reference to the sale of merchandise includes the entering
18	into of any leasing arrangement regarding the merchan-
19	dise that is equivalent to the sale of the merchandise.
20	"(b) Subsidies Agreement Country.—For pur-
21	poses of this title, the term 'Subsidies Agreement country'
22	means—
23	"(1) a WTO member country,
24	"(2) a country which the President has deter-
25	mined has assumed obligations with respect to the

1	United States which are substantially equivalent to
2	the obligations under the Subsidies Agreement, or
3	"(3) a country with respect to which the Presi-
4	dent determines that—
5	"(A) there is an agreement in effect be-
6	tween the United States and that country
7	which—
8	"(i) was in force on the date of the
9	enactment of the Uruguay Round Agree-
10	ments Act, and
11	"(ii) requires unconditional most-fa-
12	vored-nation treatment with respect to ar-
13	ticles imported into the United States, and
14	"(B) the agreement described in subpara-
15	graph (A) does not expressly permit—
16	"(i) actions required or permitted by
17	the GATT 1947 or GATT 1994, as de-
18	fined in section 2(1) of the Uruguay
19	Round Agreements Act, or required by the
20	Congress, or
21	"(ii) nondiscriminatory prohibitions or
22	restrictions on importation which are de-
23	signed to prevent deceptive or unfair prac-
24	tices.

1	"(c) Countervailing Duty Investigations In-
2	VOLVING IMPORTS NOT ENTITLED TO A MATERIAL IN-
3	JURY DETERMINATION.—In the case of any article or
4	merchandise imported from a country which is not a Sub-
5	sidies Agreement country—
6	"(1) no determination by the Commission under
7	section 703(a), 704, or 705(b) shall be required,
8	"(2) an investigation may not be suspended
9	under section 704(c) or 704(l),
10	"(3) no determination as to the presence of
11	critical circumstances shall be made under section
12	703(e) or $705(a)(2)$,
13	"(4) section 706(c) shall not apply,
14	"(5) any reference to a determination described
15	in paragraph (1) or (3), or to the suspension of an
16	investigation under section 704(c) or 704(l), shall be
17	disregarded, and
18	"(6) section 751(c) shall not apply.".
19	SEC. 263. DE MINIMIS COUNTERVAILABLE SUBSIDY.
20	(a) Preliminary Determinations.—Section
21	703(b) (19 U.S.C. 1671b(b)) is amended by adding at the
22	end the following new paragraph:
23	"(4) DE MINIMIS COUNTERVAILABLE SUB-
24	SIDY.—

"(A) GENERAL RULE.—In making a deter-
mination under this subsection, the administer-
ing authority shall disregard any de minimis
countervailable subsidy. For purposes of the
preceding sentence, a countervailable subsidy is
de minimis if the administering authority deter-
mines that the aggregate of the net
countervailable subsidies is less than 1 percent
ad valorem or the equivalent specific rate for
the subject merchandise.
"(B) Exception for developing coun-

TRIES.—In the case of subject merchandise imported from a Subsidies Agreement country (other than a country to which subparagraph (C) applies) designated by the Trade Representative as a developing country in accordance with section 771(36), a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies does not exceed 2 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(C) CERTAIN OTHER DEVELOPING COUNTRIES.—In the case of subject merchandise im-

1	ported from a Subsidies Agreement country
2	that is—
3	"(i) a least developed country, as de-
4	termined by the Trade Representative in
5	accordance with section 771(36), or
6	"(ii) a developing country with respect
7	to which the Trade Representative has no-
8	tified the administering authority that the
9	country has eliminated its export subsidies
10	on an expedited basis within the meaning
11	of Article 27.11 of the Subsidies Agree-
12	ment,
13	subparagraph (B) shall be applied by substitut-
14	ing '3 percent' for '2 percent'.
15	"(D) Limitations on application of
16	SUBPARAGRAPH (C).—
17	"(i) In general.—In the case of a
18	country described in subparagraph (C)(i),
19	the provisions of subparagraph (C) shall
20	not apply after the date that is 8 years
21	after the date the WTO Agreement enters
22	into force.
23	"(ii) Special rule for subpara-
24	GRAPH $(C)(ii)$ countries.—In the case of
25	a country described in subparagraph

1	(C)(ii), the provisions of subparagraph (C)
2	shall not apply after the earlier of—
3	"(I) the date that is 8 years after
4	the date the WTO Agreement enters
5	into force, or
6	"(II) the date on which the
7	Trade Representative notifies the ad-
8	ministering authority that such coun-
9	try is providing an export subsidy.''.
10	(b) Final Determinations.—Section 705(a) (19
11	U.S.C. 1671d(a)) is amended by adding at the end the
12	following new paragraph:
13	"(3) DE MINIMIS COUNTERVAILABLE SUB-
14	SIDY.—In making a determination under this sub-
15	section, the administering authority shall disregard
16	any countervailable subsidy that is de minimis as de-
17	fined in section $703(b)(4)$.".
18	SEC. 264. DETERMINATION OF COUNTERVAILABLE SUB-
19	SIDY RATE.
20	(a) Preliminary Determination.—Section 703(d)
21	(19 U.S.C. 1673b(d)) is amended—
22	(1) by striking paragraph (2);
23	(2) by redesignating paragraph (1), as amended
24	by section $215(a)(1)$, as paragraph (2):

1	(3) by inserting "and" at the end of paragraph
2	(2), as so redesignated; and
3	(4) by inserting before such paragraph (2) the
4	following new paragraph:
5	"(1)(A) shall—
6	"(i) determine an estimated individual
7	countervailable subsidy rate for each exporter
8	and producer individually investigated, and, in
9	accordance with section 705(c)(5), an estimated
10	all-others rate for all exporters and producers
11	not individually investigated and for new ex-
12	porters and producers within the meaning of
13	section $751(a)(2)(B)$, or
14	"(ii) if section 777A(e)(2)(B) applies, de-
15	termine a single estimated country-wide subsidy
16	rate, applicable to all exporters and producers,
17	and
18	"(B) shall order the posting of a cash deposit,
19	bond, or other security, as the administering author-
20	ity deems appropriate, for each entry of the subject
21	merchandise in an amount based on the estimated
22	individual countervailable subsidy rate, the estimated
23	all-others rate, or the estimated country-wide sub-
24	sidy rate, whichever is applicable,".
25	(b) Final Determination.—

1	(1) IN GENERAL.—Section $705(c)(1)$ (19)
2	U.S.C. 1671d(c)(1)) is amended—
3	(A) in subparagraph (B)—
4	(i) by redesignating such subpara-
5	graph as subparagraph (C); and
6	(ii) by striking ''under paragraphs (1)
7	and (2)" and all that follows through "se-
8	curity" and inserting "the suspension of
9	liquidation under paragraph (2) of section
10	703(d)";
11	(B) by striking "and" at the end of sub-
12	paragraph (A); and
13	(C) by inserting after subparagraph (A)
14	the following new subparagraph:
15	"(B)(i) the administering authority shall—
16	"(I) determine an estimated individual
17	countervailable subsidy rate for each ex-
18	porter and producer individually inves-
19	tigated, and, in accordance with paragraph
20	(5), an estimated all-others rate for all ex-
21	porters and producers not individually in-
22	vestigated and for new exporters and pro-
23	ducers within the meaning of section
24	751(a)(2)(B), or

1	"(II) if $777A(e)(2)(B)$ applies, deter-
2	mine a single estimated country-wide sub-
3	sidy rate, applicable to all exporters and
4	producers,
5	"(ii) shall order the posting of a cash de-
6	posit, bond, or other security, as the admin-
7	istering authority deems appropriate, for each
8	entry of the subject merchandise in an amount
9	based on the estimated individual
10	countervailable subsidy rate, the estimated all-
11	others rate, or the estimated country-wide sub-
12	sidy rate, whichever is applicable, and".
13	(2) METHOD FOR DETERMINING
14	COUNTERVAILABLE SUBSIDY RATE.—Section 705(c)
15	(19 U.S.C. 1671d(c)) is amended by adding at the
16	end the following new paragraph:
17	"(5) Method for determining the all-
18	OTHERS RATE AND THE COUNTRY-WIDE SUBSIDY
19	RATE.—
20	"(A) All-others rate.—
21	"(i) General rule.—For purposes
22	of this subsection and section 703(d), the
23	all-others rate shall be an amount equal to
24	the weighted average countervailable sub-
25	sidy rates established for exporters and

1	producers individually investigated, exclud-
2	ing any zero and de minimis
3	countervailable subsidy rates, and any
4	rates determined entirely under section
5	776.
6	"(ii) Exception.—If the
7	countervailable subsidy rates established
8	for all exporters and producers individually
9	investigated are zero or de minimis rates,
0	or are determined entirely under section
1	776, the administering authority may use
2	any reasonable method to establish an all-
13	others rate for exporters and producers not
4	individually investigated, including averag-
5	ing the weighted average countervailable
6	subsidy rates determined for the exporters
17	and producers individually investigated.
8	"(B) Country-wide subsidy rate.—The
9	administering authority may calculate a single
20	country-wide subsidy rate, applicable to all ex-
21	porters and producers, if the administering au-
22	thority limits its examination pursuant to sec-
23	tion 777A(e)(2)(B). The estimated country-wide
24	rate determined under section 703(d)(1)(A)(ii)

or paragraph (1)(B)(i)(II) of this subsection

1	shall be based on industry-wide data regarding
2	the use of subsidies determined to be
3	countervailable.".
4	(c) Technical and Conforming Amendments.—
5	(1) Section 703(b)(2) is amended—
6	(A) by striking "subsection (b)(1)" and in-
7	serting "paragraph (1)",
8	(B) by striking "subsection 702(b)(3)" and
9	inserting "section 702(b)(3)",
10	(C) by striking "subsection 703(b)(1)" and
11	inserting "paragraph (1)", and
12	(D) by striking "section 703(c)" and in-
13	serting "subsection (c) of this section".
14	(2) Section 703(e)(2) is amended by striking
15	"subsection $(d)(1)$ " and inserting "subsection
16	(d) (2)''.
17	(3) Section $704(f)(2)(A)$ is amended—
18	(A) in clause (i), by striking "section
19	703(d)(1)" and inserting "section $703(d)(2)$ ";
20	and
21	(B) in clause (iii), by striking "section
22	703(d)(1)" and inserting "section
23	703(d)(1)(B)".
24	(4) Section $704(f)(2)(B)$ is amended—

1	(A) by striking "section 703(d)(1)" and in-
2	serting "section 703(d)(2)"; and
3	(B) by striking "section 703(d)(2)" and
4	inserting "section 703(d)(1)(B)".
5	(5) Section 704(h)(3) is amended—
6	(A) in subparagraph (A), by striking "sec-
7	tion 703(d)(1)" and inserting "section
8	703(d)(2)"; and
9	(B) in subparagraph (B), by striking "sec-
10	tion 703(d)(2)" and inserting "section
11	703(d)(1)(B)".
12	(6) Section 704(i)(1)(A) is amended by striking
13	"section 703(d)(1)" and inserting "section
14	703(d)(2)".
15	(7) Section 705(c)(2) is amended—
16	(A) in subparagraph (A), by striking "sec-
17	tion 703(d)(1)" and inserting "section
18	703(d)(2)"; and
19	(B) in subparagraph (B), by striking "sec-
20	tion 703(d)(2)" and inserting "section
21	703(d)(1)(B)".
22	(8) Section 705(c)(3)(B) is amended by striking
23	"section 703(d)(2)" and inserting "section
24	703(d)(1)(B)".

1	(9) Section 706(b)(1) is amended by striking
2	"section 703(d)(1)" each place it appears and in-
3	serting "section 703(d)(2)".
4	(10) Section 707(a) is amended—
5	(A) by striking "section 703(d)(2)" and in-
6	serting "section 703(d)(1)(B)", and
7	(B) by striking "Section 703(d)(2)" in the
8	heading and inserting "Section 703(d)(1)(B)".
9	(11) Section 708 is amended by striking "sec-
10	tion $703(d)(2)$ " and inserting "section
11	703(d)(1)(B)".
12	SEC. 265. ASSESSMENT OF COUNTERVAILING DUTY.
13	Section 706(a) (19 U.S.C. 1671e(a)) is amended—
14	(1) by striking paragraph (2); and
15	(2) by redesignating paragraphs (3) and (4) as
16	paragraphs (2) and (3), respectively.
17	SEC. 266. NATURE OF COUNTERVAILABLE SUBSIDY.
18	Section $771(7)(E)(i)$ (19 U.S.C. $1677(7)(E)(i)$) is
19	amended to read as follows:
20	"(i) Nature of countervailable
21	SUBSIDY.—In determining whether there is
22	a threat of material injury, the Commis-
23	sion shall consider information provided to
24	it by the administering authority regarding
25	the nature of the countervailable subsidy

1	granted by a foreign country (particularly
2	whether the countervailable subsidy is a
3	subsidy described in Article 3 or 6.1 of the
4	Subsidies Agreement) and the effects likely
5	to be caused by the countervailable sub-
6	sidy.".
7	SEC. 267. DEFINITION OF DEVELOPING AND LEAST-DEVEL-
8	OPED COUNTRY.
9	Section 771 (19 U.S.C. 1677), as amended, is
10	amended by adding at the end the following new para-
11	graph:
12	"(36) Developing and least developed
13	COUNTRY.—
14	"(A) DEVELOPING COUNTRY.—The term
15	'developing country' means a country des-
16	ignated as a developing country by the Trade
17	Representative.
18	"(B) Least developed country.—The
19	term 'least developed country' means a country
20	which the Trade Representative determines is—
21	"(i) a country referred to as a least
22	developed country within the meaning of
23	paragraph (a) of Annex VII to the Sub-
24	sidies Agreement, or

1	"(ii) any other country listed in Annex
2	VII to the Subsidies Agreement, but only
3	if the country has a per capita gross na-
4	tional product of less than \$1,000 per
5	annum as measured by the most recent
6	data available from the World Bank.
7	"(C) Publication of List.—The Trade
8	Representative shall publish in the Federal Reg-
9	ister, and update as necessary, a list of—
10	"(i) developing countries that have
11	eliminated their export subsidies on an ex-
12	pedited basis within the meaning of Article
13	27.11 of the Subsidies Agreement, and
14	"(ii) countries determined by the
15	Trade Representative to be least developed
16	or developing countries.
17	"(D) Factors to consider.—In deter-
18	mining whether a country is a developing coun-
19	try under subparagraph (A), the Trade Rep-
20	resentative shall consider such economic, trade,
21	and other factors which the Trade Representa-
22	tive considers appropriate, including the level of
23	economic development of such country (the as-
24	sessment of which shall include a review of the

1	country's per capita gross national product)
2	and the country's share of world trade.
3	"(E) Limitation on designation.—A
4	determination that a country is a developing or
5	least developed country pursuant to this para-
6	graph shall be for purposes of this title only
7	and shall not affect the determination of a
8	country's status as a developing or least devel-
9	oped country with respect to any other law.".
10	SEC. 268. UPSTREAM SUBSIDIES.
11	Section 771A(a) (19 U.S.C. 1677-1(a)) is amend-
12	ed—
13	(1) by striking the matter preceding paragraph
14	(1) and paragraph (1) and inserting the following:
15	"(a) DEFINITION.—The term 'upstream subsidy'
16	means any countervailable subsidy, other than an export
17	subsidy, that—
18	"(1) is paid or bestowed by an authority (as de-
19	fined in section 771(5)) with respect to a product
20	(hereafter in this section referred to as an 'input
21	product') that is used in the same country as the au-
22	thority in the manufacture or production of mer-
23	chandise which is the subject of a countervailing
24	duty proceeding;", and

1	(2) in the flush sentence at the end thereof, by
2	inserting ''countervailable'' before ''subsidy''.
3	SEC. 269. DETERMINATION OF COUNTERVAILABLE SUB-
4	SIDY RATE.
5	(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f-
6	1), as amended by section 229, is amended by adding at
7	the end the following new subsection:
8	"(e) Determination of Countervailable Sub-
9	SIDY RATE.—
10	"(1) General rule.—In determining
11	countervailable subsidy rates under section 703(d),
12	705(c), or 751(a), the administering authority shall
13	determine an individual countervailable subsidy rate
14	for each known exporter or producer of the subject
15	merchandise.
16	"(2) Exception.—If the administering author-
17	ity determines that it is not practicable to determine
18	individual countervailable subsidy rates under para-
19	graph (1) because of the large number of exporters
20	or producers involved in the investigation or review,
21	the administering authority may—
22	"(A) determine individual countervailable
23	subsidy rates for a reasonable number of ex-
24	porters or producers by limiting its examination
25	to—

1	"(i) a sample of exporters or produc-
2	ers that the administering authority deter-
3	mines is statistically valid based on the in-
4	formation available to the administering
5	authority at the time of selection, or
6	"(ii) exporters and producers account-
7	ing for the largest volume of the subject
8	merchandise from the exporting country
9	that the administering authority deter-
10	mines can be reasonably examined; or
11	"(B) determine a single country-wide sub-
12	sidy rate to be applied to all exporters and pro-
13	ducers.
14	The individual countervailable subsidy rates deter-
15	mined under subparagraph (A) shall be used to de-
16	termine the all-others rate under section $705(c)(5)$."
17	(b) Conforming Amendments.—
18	(1) The heading for section 777A, as amended
19	by section 229, is amended by inserting "AND
20	COUNTERVAILABLE SUBSIDY RATE " after
21	"MARGIN".
22	(2) The table of contents for title VII is amend-
23	ed by inserting "; determination of weighted average
24	dumping margin and countervailable subsidy rate"

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after "averaging" in the item relating to section
 1
 2
        777A.
    SEC. 270. CONFORMING AMENDMENTS.
 4
        (a) Countervailable Subsidy.—
 5
             (1) Except as provided in paragraph (2), each
        of the following sections is amended by striking
 6
        "subsidy" each place it appears in the text and in
 7
        the heading and inserting "countervailable subsidy":
 8
                  (A) Section 702(e) (19 U.S.C. 1671a(e)).
 9
                                  703(b)(1)
                                               (19
                  (B)
                        Section
                                                      U.S.C.
10
             1671b(b)(1)).
11
                  (C)
                                  703(b)(2)
                                               (19
                                                      U.S.C.
12
                        Section
             1671b(b)(2)).
13
                  (D) Section 703(c)(1)(B)(i)(I) (19 U.S.C.
14
             1671b(c)(1)(B)(i)(I).
15
                  (E) Section 704 (19 U.S.C. 1671c).
16
17
                  (F)
                        Section
                                  705(a)(1)
                                               (19)
                                                      U.S.C.
18
             1671d(a)(1)).
                  (G)
                                               (19
                                                      U.S.C.
19
                        Section
                                  705(a)(2)
             1671d(a)(2)).
20
21
                  (H)
                                   706(a)(1)
                                                      U.S.C.
                         Section
                                               (19)
             1671e(a)(1)).
22
                  (I) Section 761 (19 U.S.C. 1676).
23
                  (J) Section 762 (19 U.S.C. 1676a).
24
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1	(K) Section 771A(b) (19 U.S.C. 1677–
2	1(b)).
3	(L) Section 771A(c) (19 U.S.C. 1677–
4	1(c)).
5	(M) Section 780(d)(1)(A)(ii) (19 U.S.C.
6	1677i(d)(1)(A)(ii)).
7	(N) Section 516A(a)(2)(B)(iv) (19 U.S.C.
8	1516a(a)(2)(B)(iv)).
9	(2)(A) The heading for section 704(b) (19
10	U.S.C. 1671c(b)) is amended by striking "Subsidy"
11	and inserting "Countervailable Subsidy".
12	(B) The heading for section 771(A)(c) (19
13	U.S.C. 1677–1(c)) is amended by striking "Subsidy"
14	and inserting "Countervailable Subsidy".
15	(b) Countervailable Subsidies.—
16	(1) Except as provided in paragraph (2), each
17	of the following sections is amended by striking
18	"subsidies" each place it appears in the text and in
19	the heading and inserting "countervailable sub-
20	sidies'':
21	(A) Section 701(d) (19 U.S.C. 1671(d)).
22	(B) Section $703(c)(1)(B)(i)(III)$ (19
23	U.S.C. 1671b(c)(1)(B)(i)(III)).
24	(C) Section 761 (19 U.S.C. 1676).
25	(D) Section 771B (19 U.S.C. 1677–2).

1	(2) The heading for section 761(a) and section
2	771B (19 U.S.C. 1676(a) and 1677-2) are each
3	amended by striking ''Subsidies'' and inserting
4	"Countervailable Subsidies".
5	(c) Other Conforming Amendments.—
6	(1) The heading for section 704(b) (19 U.S.C
7	1671c(b)) is amended by striking "Subsidized Mer-
8	chandise" and inserting "Subject Merchandise".
9	(2) Subparagraphs (C) and (D) of section
10	771(4) (19 U.S.C. 1677(4) (C) and (D)) are amend-
11	ed by striking "subsidized or" each place it appears
12	and inserting "or imports of merchandise benefiting
13	from a countervailable subsidy" after "imports".
14	(3) Section 771A (19 U.S.C. 1677-1), as
15	amended, is amended in subsection (c), by striking
16	"subsidization" and inserting "the countervailable
17	subsidy''.
18	(4) The table of contents for title VII is amend-
19	ed—
20	(A) in the item relating to section 771B
21	by inserting "countervailable" before "sub-
22	sidies", and
23	(B) in the item relating to section 775, by
24	striking "Subsidy" and inserting
25	"Countervailable subsidy".

1	(d) Subsidies Agreement.—Section 702(e) (19
2	U.S.C. 1671a(e)) is amended by striking "Agreement"
3	and inserting "Subsidies Agreement".
4	(e) Subsidies Agreement and Agreement on
5	AGRICULTURE.—Section 771(8) (19 U.S.C. 1677(8)) is
6	amended to read as follows:
7	"(8) Subsidies agreement; agreement on
8	AGRICULTURE.—
9	"(A) Subsidies agreement.—The term
10	'Subsidies Agreement' means the Agreement on
11	Subsidies and Countervailing Measures referred
12	to in section 101(d)(12) of the Uruguay Round
13	Agreements Act.
14	"(B) AGREEMENT ON AGRICULTURE.—The
15	term 'Agreement on Agriculture' means the
16	Agreement on Agriculture referred to in section
17	101(d)(2) of the Uruguay Round Agreements
18	Act.''.
19	PART 3—SECTION 303 INJURY INVESTIGATIONS
20	SEC. 271. SPECIAL RULES FOR INJURY INVESTIGATIONS
21	FOR CERTAIN SECTION 303 COUNTERVAILING
22	DUTY ORDERS AND INVESTIGATIONS.
23	(a) IN GENERAL.—Chapter 1 of subtitle C of title
24	VII, as amended, is amended by inserting after section
25	752 the following new section:

1	"SEC. 753. SPECIAL RULES FOR INJURY INVESTIGATIONS
2	FOR CERTAIN SECTION 303 COUNTERVAILING
3	DUTY ORDERS AND INVESTIGATIONS.
4	"(a) In General.—
5	"(1) Investigation by the commission
6	UPON REQUEST.—In the case of a countervailing
7	duty order described in paragraph (2), which—
8	"(A) applies to merchandise that is the
9	product of a Subsidies Agreement country, and
10	"(B)(i) is in effect on the date on which
11	such country becomes a Subsidies Agreement
12	country, or
13	"(ii) is issued on a date that is after the
14	date described in clause (i) pursuant to a court
15	order in an action brought under section 516A,
16	the Commission, upon receipt of a request from an
17	interested party described in section 771(9) (C),
18	(D), (E), (F), or (G) for an injury investigation with
19	respect to such order, shall initiate an investigation
20	and shall determine whether an industry in the
21	United States is likely to be materially injured by
22	reason of imports of the subject merchandise if the
23	order is revoked.
24	"(2) Description of countervailing duty
25	ORDERS.—A countervailing duty order described in
26	this paragraph is an order issued under section 303

1	with respect to which the requirement of an affirma-
2	tive determination of material injury under section
3	303(a)(2) was not applicable at the time such order
4	was issued.
5	"(3) Requirements of request for inves-
6	TIGATION.—A request for an investigation under
7	this subsection shall be submitted—
8	"(A) in the case of an order described in
9	paragraph (1)(B)(i), within 6 months after the
10	date on which the country described in para-
11	graph (1)(A) becomes a Subsidies Agreement
12	country, or
13	"(B) in the case of an order described in
14	paragraph (1)(B)(ii), within 6 months after the
15	date the order is issued.
16	"(4) Suspension of Liquidation.—With re-
17	spect to entries of subject merchandise made on or
18	after—
19	"(A) in the case of an order described in
20	paragraph (1)(B)(i), the date on which the
21	country described in paragraph (1)(A) becomes
22	a Subsidies Agreement country, or
23	"(B) in the case of an order described in
24	paragraph (1)(B)(ii), the date on which the
25	order is issued

1	liquidation shall be suspended at the cash deposit
2	rate in effect on the date described in subparagraph
3	(A) or (B) (whichever is applicable).
4	"(b) Investigation Procedure and Schedule.—
5	"(1) Commission procedure.—
6	"(A) In general.—Except as otherwise
7	provided in this section, the provisions of this
8	title regarding evidence in and procedures for
9	investigations conducted under subtitle A shall
10	apply to investigations conducted by the Com-
11	mission under this section.
12	"(B) Time for commission determina-
13	TION.—Except as otherwise provided in sub-
14	paragraph (C), the Commission shall issue its
15	determination under subsection (a)(1), to the
16	extent possible, not later than 1 year after the
17	date on which the investigation is initiated
18	under this section.
19	"(C) Special rule to permit adminis-
20	TRATIVE FLEXIBILITY.—In the case of requests
21	for investigations received under this section
22	within 1 year after the date on which the WTO
23	Agreement enters into force with respect to the
24	United States, the Commission may, after con-
25	sulting with the administering authority, initi-

1	ate its investigations in a manner that results
2	in determinations being made in all such inves-
3	tigations during the 4-year period beginning on
4	such date.
5	"(2) Net countervailable subsidy; nature
6	OF SUBSIDY.—
7	"(A) Net countervailable subsidy.—
8	The administering authority shall provide to the
9	Commission the net countervailable subsidy
10	that is likely to prevail if the order which is the
11	subject of the investigation is revoked. The ad-
12	ministering authority normally shall choose a
13	net countervailable subsidy that was determined
14	under section 705 or subsection (a) or $(b)(1)$ of
15	section 751. If the Commission considers the
16	magnitude of the net countervailable subsidy in
17	making its determination under this section, the
18	Commission shall use the net countervailable
19	subsidy provided by the administering author-
20	ity.
21	"(B) Nature of Subsidy.—The admin-
22	istering authority shall inform the Commission
23	of, and the Commission, in making its deter-
24	mination under this section, shall consider, the

nature of the countervailable subsidy and

1	whether the countervailable subsidy is a subsidy
2	described in Article 3 or Article 6.1 of the Sub-
3	sidies Agreement.
4	"(3) Effect of commission determina-
5	TION.—
6	"(A) Affirmative determination.—
7	Upon being notified by the Commission that it
8	has made an affirmative determination under
9	subsection (a)(1)—
10	"(i) the administering authority shall
11	order the termination of the suspension of
12	liquidation required pursuant to subsection
13	(a) (4), and
14	''(ii) the countervailing duty order
15	shall remain in effect until revoked, in
16	whole or in part, under section 751(d).
17	For purposes of section 751(c), a countervailing
18	duty order described in this section shall be
19	treated as issued on the date of publication of
20	the Commission's determination under this sub-
21	section.
22	"(B) Negative Determination.—
23	"(i) In general.—Upon being noti-
24	fied by the Commission that it has made a
25	negative determination under subsection

1	(a)(1), the administering authority shall
2	revoke the countervailing duty order, and
3	shall refund, with interest, any estimated
4	countervailing duties collected during the
5	period liquidation was suspended pursuant
6	to subsection (a)(4).
7	"(ii) Limitation on negative de-
8	TERMINATION.—A determination by the
9	Commission that revocation of the order is
10	not likely to result in material injury to an
11	industry by reason of imports of the sub-
12	ject merchandise shall not be based, in
13	whole or in part, on any export taxes, du-
14	ties, or other charges levied on the export
15	of the subject merchandise to the United
16	States that were specifically intended to
17	offset the countervailable subsidy received.
18	"(4) Countervailing duty orders with re-
19	SPECT TO WHICH NO REQUEST FOR INJURY INVES-
20	TIGATION IS MADE.—If, with respect to a counter-
21	vailing duty order described in subsection (a), a re-
22	quest for an investigation is not made within the
23	time required by subsection (a)(3), the Commission

shall notify the administering authority that a nega-

tive determination has been made under subsection

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1	(a) and the provisions of paragraph (3)(B) shall
2	apply with respect to the order.
3	"(c) Pending and Suspended Countervailing
4	DUTY INVESTIGATIONS.—If, on the date on which a coun-
5	try becomes a Subsidies Agreement country, there is a
6	countervailing duty investigation in progress or suspended
7	under section 303 that applies to merchandise which is
8	a product of that country and with respect to which the
9	requirement of an affirmative determination of material
10	injury under section 303(a)(2) was not applicable at the
11	time the investigation was initiated, the Commission
12	shall—
13	"(1) in the case of an investigation in progress,
14	make a final determination under section 705(b)
15	within 75 days after the date of an affirmative final
16	determination, if any, by the administering author-
17	ity,
18	"(2) in the case of a suspended investigation to
19	which section 704(i)(1)(B) applies, make a final de-
20	termination under section 705(b) within 120 days
21	after receiving notice from the administering author-
22	ity of the resumption of the investigation pursuant
23	to section 704(i), or within 45 days after the date
24	of an affirmative final determination, if any, by the
25	administering authority, whichever is later, or

1	"(3) in the case of a suspended investigation to
2	which section 704(i)(1)(C) applies, treat the counter-
3	vailing duty order issued pursuant to such section as
4	if it were—
5	"(A) an order issued under subsection
6	(a)(1)(B)(ii) for purposes of subsection (a)(3);
7	and
8	"(B) an order issued under subsection
9	(a) (1) (B) (i) for purposes of subsection (a) (4) .
10	"(d) Publication in Federal Register.—The
11	administering authority or the Commission, as the case
12	may be, shall publish in the Federal Register a notice of
13	the initiation of any investigation, and a notice of any de-
14	termination or revocation, made pursuant to this section.
15	"(e) Request for Simultaneous Expedited Re-
16	VIEW UNDER SECTION 751(c).—
17	"(1) General rule.—
18	"(A) Requests for reviews.—Notwith-
19	standing section 751(c)(6)(A) and except as
20	provided in subparagraph (B), an interested
21	party may request a review of an order under
22	section 751(c) at the same time the party re-
23	quests an investigation under subsection (a), if
24	the order involves the same or comparable sub-
25	iect merchandise. Upon receipt of such request.

the administering authority, after consulting with the Commission, shall initiate a review of the order under section 751(c). The Commission shall combine such review with the investigation under this section.

"(B) EXCEPTION.—If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 771(4)(B), the administering authority may decline a request by such party to initiate a review of an order under section 751(c) which involves the same or comparable subject merchandise.

"(2) Cumulation.—If a review under section 751(c) is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 771(7)(G), cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

"(3) TIME AND PROCEDURE FOR COMMISSION DETERMINATION.—The Commission shall render its

- determination in the investigation conducted under
- 2 this section at the same time as the Commission's
- determination is made in the review under section
- 4 751(c) that is initiated pursuant to this subsection.
- 5 The Commission shall in all other respects apply the
- 6 procedures and standards set forth in section 751(c)
- 7 to such section 751(c) reviews.".
- 8 (b) Review of Determinations.—Section
- 9 516A(a)(2) (19 U.S.C. 1516a(a)(2)) is amended—
- 10 (1) in subparagraph (A)(i)(I), by striking "or
- (v)" and inserting "(v), or (viii)", and
- 12 (2) in subparagraph (B), by adding at the end
- the following:
- 14 "(viii) A determination by the Com-
- mission under section 753(a)(1).".
- 16 (c) Conforming Amendment.—The table of con-
- 17 tents for title VII, as amended, is amended by inserting
- 18 after the item relating to section 752 the following new
- 19 item:

"Sec. 753. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.".

20 PART 4—ENFORCEMENT OF UNITED STATES

- 21 RIGHTS UNDER THE SUBSIDIES AGREEMENT
- 22 SEC. 281. SUBSIDIES ENFORCEMENT.
- 23 (a) Assistance Regarding Multilateral Sub-
- 24 SIDY REMEDIES.—The administering authority shall pro-

- 1 vide information to the public upon request, and, to the
- 2 extent feasible, assistance and advice to interested parties
- 3 concerning—

- 4 (1) remedies and benefits available under rel-5 evant provisions of the Subsidies Agreement, and
 - (2) the procedures relating to such remedies and benefits.

(b) Prohibited Subsidies.—

- (1) Notification of trade representative.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall notify the Trade Representative and shall provide the Trade Representative with the information upon which the administering authority based its determination.
- (2) Request by interested party regarding prohibited subsidies Agreement. The request shall con-

- 1 tain such information as the administering authority may require to support the allegations contained in 2 3 the request. If the administering authority, after analyzing the request and other information reason-5 ably available to the administering authority, deter-6 mines that there is reason to believe that such mer-7 chandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, 8 9 the administering authority shall so notify the Trade Representative, and shall include supporting infor-10 11 mation with the notification.
- 12 (c) Subsidies Actionable Under the Agree-13 ment.—

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- (1) IN GENERAL.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy described in Article 6.1 of the Subsidies Agreement, the administering authority shall notify the Trade Representative, and shall provide the Trade Representative with the information upon which the administering authority based its determination.
 - (2) REQUEST BY INTERESTED PARTY REGARD-ING ADVERSE EFFECTS.—An interested party may request the administering authority to determine if

there is reason to believe that a subsidy which is ac-1 2 tionable under the Subsidies Agreement is causing adverse effects. The request shall contain such infor-3 mation as the administering authority may require 5 to support the allegations contained in the request. 6 At the request of the administering authority, the 7 Commission shall assist the administering authority in analyzing the information pertaining to the exist-8 9 ence of such adverse effects. If the administering authority, after analyzing the request and other infor-10 11 mation reasonably available to the administering authority, determines that there is reason to believe 12 that a subsidy which is actionable under the Sub-13 14 sidies Agreement is causing adverse effects, the administering authority shall so notify the Trade Rep-15 resentative, and shall include supporting information 16 17 with the notification. 18 (d) Initiation of Section 301 Investigation.— On the basis of the notification and information provided 19 by the administering authority pursuant to subsection (b) 20 or (c), such other information as the Trade Representative may have or obtain, and where applicable, after consultation with an interested party referred to in subsection (b)(2) or (c)(2), the Trade Representative shall, unless such interested party objects, determine as expeditiously

- 1 as possible, in accordance with the procedures in section
- 2 302(b)(1) of the Trade Act of 1974 (19 U.S.C.
- 3 2412(b)(1)), whether to initiate an investigation pursuant
- 4 to title III of that Act (19 U.S.C. 2411 et seq.). At the
- 5 request of the Trade Representative, the administering au-
- 6 thority and the Commission shall assist the Trade Rep-
- 7 resentative in an investigation initiated pursuant to this
- 8 subsection.

(e) Nonactionable Subsidies.—

(1) Compliance with article 8 of the subsidies agreement.—

(A) Monitoring.—In order to monitor whether a subsidy meets the conditions and criteria described in Article 8.2 of the Subsidies Agreement and is nonactionable, the Trade Representative shall provide the administering authority on a timely basis with any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program. The administering authority shall review such information and reports, and where appropriate, shall recommend to the Trade Representative that the Trade Representative seek pursuant to Article 8.3 or 8.4 of the Subsidies Agreement addi-

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tional information regarding the notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority has reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(B) Request by interested party re-GARDING VIOLATION OF ARTICLE 8.—An interested party may request the administering authority to determine if there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that additional information is needed, the administering authority shall recommend to the Trade Representative that the Trade Representative seek, pursuant to Article 8.3 or 8.4 of the Subsidies Agreement, additional information regarding

the particular notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(C) ACTION BY TRADE REPRESENTATIVE.—

(i) If the Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (A) or (B), and such other information as the Trade Representative may have or obtain, and after consulting with the interested party referred to in subparagraph (B) and appropriate domestic industries, determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the Trade Representative shall invoke the procedures of Article 8.4 or 8.5 of the Subsidies Agreement.

1	(ii) For purposes of clause (i), the
2	Trade Representative shall determine that
3	there is reason to believe that a violation
4	of Article 8 exists in any case in which the
5	Trade Representative determines that a
6	notified subsidy program or a subsidy
7	granted pursuant to a notified subsidy pro-
8	gram does not satisfy the conditions and
9	criteria required for a nonactionable sub-
10	sidy program under this Act, the Subsidies
11	Agreement, and the statement of adminis-
12	trative action approved under section
13	101(a).
14	(D) Notification of administering Au-
15	THORITY.—The Trade Representative shall no-
16	tify the administering authority whenever a vio-
17	lation of Article 8 of the Subsidies Agreement
18	has been found to exist pursuant to Article 8.4
19	or 8.5 of that Agreement.
20	(2) Serious adverse effects.—
21	(A) REQUEST BY INTERESTED PARTY.—
22	An interested party may request the admin-
23	istering authority to determine if there is rea-
24	son to believe that serious adverse effects re-

sulting from a program referred to in Article

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8.2 of the Subsidies Agreement exist. The request shall contain such information as the administering authority may require to support the allegations contained in the request.

(B) ACTION BY ADMINISTERING AUTHOR-ITY.—Within 90 days after receipt of the request described in subparagraph (A), the administering authority, after analyzing the request and other information reasonably available to the administering authority, shall determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. If the determination of the administering authority is affirmative, it shall so notify the Trade Representative and shall include supporting information with the notification. The Commission shall assist the administering authority in analyzing the information pertaining to the existence of such serious adverse effects if the administering authority requests the Commission's assistance. If the subsidy program that is alleged to result in serious adverse effects has been the subject of a countervailing duty investigation or review under subtitle A or

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C of title VII of the Tariff Act of 1930, the administering authority shall take into account the determinations made by the administering authority and the Commission in such investigation or review and the administering authority shall complete its analysis as expeditiously as possible.

ACTION BY TRADE REPRESENTA-TIVE.—The Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (B), and such other information as the Trade Representative may have or obtain, shall determine as expeditiously as possible, but not later than 30 days after receipt of the notification provided by the administering authority, if there is reason to believe that serious adverse effects exist resulting from the subsidy program which is the subject of the administering authority's notification. The Trade Representative shall make an affirmative determination regarding the existence of such serious adverse effects unless the Trade Representative finds that the notification of the administering authority is not supported by the facts.

1	(D) Consultations.—If the Trade Rep-
2	resentative determines that there is reason to
3	believe that serious adverse effects resulting
4	from the subsidy program exist, the Trade Rep-
5	resentative, unless the interested party referred
6	to in subparagraph (A) objects, shall invoke the
7	procedures of Article 9 of the Subsidies Agree-
8	ment, and shall request consultations pursuant
9	to Article 9.2 of the Subsidies Agreement with
10	respect to such serious adverse effects. If such
11	consultations have not resulted in a mutually
12	acceptable solution within 60 days after the re-
13	quest is made for such consultations, the Trade
14	Representative shall refer the matter to the
15	Subsidies Committee pursuant to Article 9.3 of
16	the Subsidies Agreement.
17	(E) DETERMINATION BY SUBSIDIES COM-
18	MITTEE.—If the Trade Representative deter-
19	mines that—
20	(i) the Subsidies Committee has been
21	prevented from making an affirmative de-
22	termination regarding the existence of seri-
23	ous adverse effects under Article 9 of the
24	Subsidies Agreement by reason of the re-

fusal of the WTO member country with re-

1	spect to which the consultations have been
2	invoked to join in an affirmative consen-
3	sus—
4	(I) that such serious adverse ef-
5	fects exist, or
6	(II) regarding a recommendation
7	to such WTO member country to
8	modify the subsidy program in such a
9	way as to remove the serious adverse
10	effects, or
11	(ii) the Subsidies Committee has not
12	presented its conclusions regarding the ex-
13	istence of such serious adverse effects
14	within 120 days after the date the matter
15	was referred to it, as required by Article
16	9.4 of the Subsidies Agreement,
17	the Trade Representative shall, within 30 days
18	after such determination, make a determination
19	under section 304(a)(1) of the Trade Act of
20	1974 (19 U.S.C. 2414(a)(1)) regarding what
21	action to take under section 301(a)(1)(A) of
22	that Act.
23	(F) Noncompliance with committee
24	RECOMMENDATION.—In the event that the Sub-
25	sidies Committee makes a recommendation

1	under Article 9.4 of the Subsidies Agreement
2	and the WTO member country with respect to
3	which such recommendation is made does not
4	comply with such recommendation within 6
5	months after the date of the recommendation,
6	the Trade Representative shall make a deter-
7	mination under section 304(a)(1) of the Trade
8	Act of 1974 (19 U.S.C. 2414(a)(1)) regarding
9	what action to take under section 301(a) of
10	that Act.

11 (f) Notification, Consultation, and Publica-12 tion.—

- (1) Notification of congress.—The Trade Representative shall submit promptly to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of the Congress any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.
 - (2) PUBLICATION IN THE FEDERAL REGISTER.—The administering authority shall publish regularly in the Federal Register a summary notice of any information submitted or report made pursu-

1	ant to Article 8.3 or 8.4 of the Subsidies Agreement
2	regarding notified subsidy programs.
3	(3) Consultations with congress and pri-
4	VATE SECTOR.—The Trade Representative and the
5	administering authority promptly shall consult with
6	the committees referred to in paragraph (1), and
7	with interested representatives of the private sector,
8	regarding all information submitted or reports made
9	pursuant to Article 8.3 or 8.4 of the Subsidies
10	Agreement regarding a notified subsidy program.
11	(4) Annual report.—Not later than Feb-
12	ruary 1 of each year beginning in 1996, the Trade
13	Representative and the administering authority shall
14	issue a joint report to the Congress detailing—
15	(A) the subsidies practices of major trad-
16	ing partners of the United States, including
17	subsidies that are prohibited, are causing seri-
18	ous prejudice, or are nonactionable, under the
19	Subsidies Agreement, and
20	(B) the monitoring and enforcement activi-
21	ties of the Trade Representative and the admin-
22	istering authority during the preceding calendar
23	year which relate to subsidies practices.
24	(g) Cooperation of Other Agencies.—All agen-
25	cies, departments, and independent agencies of the Fed-

- 1 eral Government shall cooperate fully with one another in
- 2 carrying out the provisions of this section, and, upon the
- 3 request of the administering authority, shall furnish to the
- 4 administering authority all records, papers, and informa-
- 5 tion in their possession which relate to the requirements
- 6 of this section.
- 7 (h) Definitions.—For purposes of this section—
- 8 (1) ADVERSE EFFECTS.—The term "adverse ef-
- 9 fects" has the meaning given that term in Articles
- 5(a) and 5(c) of the Subsidies Agreement.
- 11 (2) Administering authority.—The term
- 12 "administering authority" has the meaning given
- that term in section 771(1) of the Tariff Act of
- 14 1930 (19 U.S.C. 1677(1)).
- 15 (3) COMMISSION.—The term "Commission"
- means the United States International Trade Com-
- 17 mission.
- 18 (4) Interested party.—The term "interested
- 19 party' means a party described in subparagraph
- 20 (C), (D), (E), (F), or (G) of section 771(9) of the
- 21 Tariff Act of 1930 (19 U.S.C. 1677(9) (A), (C),
- 22 (D), (E), (F), or (G)).
- 23 (5) Nonactionable subsidy.—The term
- 24 "nonactionable subsidy" means a subsidy described
- in Article 8.1(b) of the Subsidies Agreement.

1	(6) Notified subsidy program.—The term
2	"notified subsidy program" means a subsidy pro-
3	gram which has been notified pursuant to Article 8.3
4	of the Subsidies Agreement.
5	(7) Serious adverse effects.—The term
6	"serious adverse effects" has the meaning given that
7	term in Article 9.1 of the Subsidies Agreement.
8	(8) Subsidies agreement.—The term "Sub-
9	sidies Agreement" means the Agreement on Sub-
10	sidies and Countervailing Measures described in sec-
11	tion 771(8) of the Tariff Act of 1930 (19 U.S.C.
12	1677(8)).
13	(9) Subsidies committee.—The term "Sub-
14	sidies Committee" means the committee established
15	pursuant to Article 24 of the Subsidies Agreement.
16	(10) Subsidy.—The term "subsidy" has the
17	meaning given that term in Article 1 of the Sub-
18	sidies Agreement.
19	(11) Trade representative.—The term
20	"Trade Representative" means the United States
21	Trade Representative.
22	(12) VIOLATION OF ARTICLE 8.—The term
23	"violation of Article 8" means the failure of a noti-
24	fied subsidy program or an individual subsidy grant-
25	ed pursuant to a notified subsidy program to meet

1	the applicable conditions and criteria described in
2	Article 8.2 of the Subsidies Agreement.
3	(i) Treatment of Proprietary Information.—
4	Notwithstanding any other provision of law, the admin-
5	istering authority may provide the Trade Representative
6	with a copy of proprietary information submitted to, or
7	obtained by, the administering authority that the Trade
8	Representative considers relevant in carrying out its re-
9	sponsibilities under this part. The Trade Representative
10	shall protect from public disclosure proprietary informa-
11	tion obtained from the administering authority under this
12	part.
13	SEC. 282. REVIEW OF SUBSIDIES AGREEMENT.
14	(a) GENERAL OBJECTIVES.—The general objectives
15	of the United States under this part are—
16	(1) to ensure that parts II and III of the
17	Agreement on Subsidies and Countervailing Meas-
18	ures referred to in section $101(d)(12)$ (hereafter in
19	
	this section referred to as the "Subsidies Agree-
20	this section referred to as the "Subsidies Agreement") are effective in disciplining the use of sub-
202122	ment") are effective in disciplining the use of sub-
21	ment") are effective in disciplining the use of sub- sidies and in remedying the adverse effects of sub-

from any other part of that Agreement.

1	(b) Specific Objective.—The specific objective of
2	the United States under this part shall be to create a
3	mechanism which will provide for an ongoing review of the
4	operation of part IV of the Subsidies Agreement.
5	(c) Sunset of Noncountervailable Subsidies
6	Provisions.—
7	(1) IN GENERAL.—Subparagraphs (B), (C),
8	(D), and (E) of section 771(5B) of the Tariff Act
9	of 1930 shall cease to apply as provided in subpara-
10	graph (G)(i) of such section, unless, before the date
11	referred to in such subparagraph (G)(i)—
12	(A) the Subsidies Committee determines to
13	extend Articles 6.1, 8, and 9 of the Subsidies
14	Agreement as in effect on the date on which the
15	Subsidies Agreement enters into force or in a
16	modified form, in accordance with Article 31 of
17	such Agreement,
18	(B) the President consults with the Con-
19	gress in accordance with paragraph (2), and
20	(C) an implementing bill is submitted and
21	enacted into law in accordance with paragraphs
22	(3) and (4).
23	(2) Consultation with congress before
24	SUBSIDIES COMMITTEE AGREES TO EXTEND.—Be-
25	fore a determination is made by the Subsidies Com-

1	mittee to extend Articles 6.1, 8, and 9 of the Sub-
2	sidies Agreement, the President shall consult with
3	the Committee on Ways and Means of the House of
4	Representatives and the Committee on Finance of
5	the Senate regarding such extension.
6	(3) Implementation of extension.—
7	(A) Notification and submission.—Any
8	extension of subparagraphs (B), (C), (D), and
9	(E) of section 771(5B) of the Tariff Act of
10	1930 shall take effect if (and only if)—
11	(i) after the Subsidies Committee de-
12	termines to extend Articles 6.1, 8, and 9 of
13	the Subsidies Agreement, the President
14	submits to the committees referred to in
15	paragraph (2) a copy of the document de-
16	scribing the terms of such extension, to-
17	gether with—
18	(I) a draft of an implementing
19	bill,
20	(II) a statement of any adminis-
21	trative action proposed to implement
22	the extension, and
23	(III) the supporting information
24	described in subparagraph (C); and

1	(ii) the implementing bill is enacted
2	into law.
3	(B) Implementing bill.—The imple-
4	menting bill referred to in subparagraph (A)
5	shall contain only those provisions that are nec-
6	essary or appropriate to implement an extension
7	of the provisions of section 771(5B) (B), (C),
8	(D), and (E) of the Tariff Act of 1930 as in
9	effect on the day before the date of the enact-
10	ment of the implementing bill or as modified to
11	reflect the determination of the Subsidies Com-
12	mittee to extend Articles 6.1, 8, and 9 of the
13	Subsidies Agreement.
14	(C) Supporting information.—The sup-
15	porting information required under subpara-
16	graph (A)(i)(III) consists of—
17	(i) an explanation as to how the im-
18	plementing bill and proposed administra-
19	tive action will change or affect existing
20	law; and
21	(ii) a statement regarding—
22	(I) how the extension serves the
23	interests of United States commerce,
24	and

1	(II) why the implementing bill
2	and proposed administrative action is
3	required or appropriate to carry out
4	the extension.
5	(4) Application of congressional "fast
6	TRACK" PROCEDURES TO IMPLEMENTING BILL.—
7	Section 151 of the Trade Act of 1974 (19 U.S.C.
8	2191) is amended—
9	(A) in subsection (b)(1)—
10	(i) by inserting ", or with respect to
11	an extension described in section 282(c)(3)
12	of the Uruguay Round Agreements Act,"
13	after "trade agreements",
14	(ii) by striking "or section 1103(a)(1)
15	of the Omnibus Trade and Competitiveness
16	Act of 1988" and inserting ", section
17	1103(a)(1) of the Omnibus Trade and
18	Competitiveness Act of 1988, or section
19	282 of the Uruguay Round Agreements
20	Act", and
21	(iii) by inserting "or such extension"
22	in subparagraphs (A) and (C) after
23	"agreements" each place it appears, and
24	(B) in subsection (c) (1) —

1	(i) by inserting "or section 282 of the
2	Uruguay Round Agreements Act'' after
3	"section 102", and
4	(ii) by inserting "or extension" after
5	"agreement" each place it appears.
6	(5) Report by the trade representa-
7	TIVE.—Not later than the date referred to in section
8	771 (5B) (G)(i) of the Tariff Act of 1930, the Trade
9	Representative shall submit to the Congress a report
10	setting forth the provisions of law which were en-
11	acted to implement Articles 6.1, 8, and 9 of the Sub-
12	sidies Agreement and should be repealed or modified
13	if such provisions are not extended.
14	(d) Review of the Operation of the Subsidies
15	AGREEMENT.—The Secretary of Commerce, in consulta-
16	tion with other appropriate departments and agencies of
17	the Federal Government, shall undertake an ongoing re-
18	view of the operation of the Subsidies Agreement. The re-
19	view shall address—
20	(1) the effectiveness of part II of the Subsidies
21	Agreement in disciplining the use of subsidies which
22	are prohibited under Article 3 of the Agreement,
23	(2) the effectiveness of part III and, in particu-
24	lar, Article 6.1 of the Subsidies Agreement, in rem-

1	edying the adverse effects of subsidies which are ac-
2	tionable under the Agreement, and
3	(3) the extent to which the provisions of part
4	IV of the Subsidies Agreement may have under-
5	mined the benefits derived from other parts of the
6	Agreement, and, in particular—
7	(A) the extent to which WTO member
8	countries have cooperated in reviewing and im-
9	proving the operation of part IV of the Sub-
0	sidies Agreement,
1	(B) the extent to which the provisions of
2	Articles 8.4 and 8.5 of the Subsidies Agreement
3	have been effective in identifying and remedying
4	violations of the conditions and criteria de-
5	scribed in Article 8.2 of the Agreement, and
6	(C) the extent to which the provisions of
7	Article 9 of the Subsidies Agreement have been
8	effective in remedying the serious adverse ef-
9	fects of subsidy programs described in Article
20	8.2 of the Agreement.
21	Not later than 4 years and 6 months after the date
22	of the enactment of this Act, the Secretary of Com-
23	merce shall submit to the Congress a report on the
24	review required under this subsection.

1	SEC. 283. AMENDMENTS TO TITLE VII OF THE TARIFF ACT
2	OF 1930.
3	(a) Preliminary Determination by Administer-
4	ING AUTHORITY.—Section 703(b) of the Tariff Act of
5	1930 (19 U.S.C. 1671b(b)), as amended, is amended by
6	adding at the end the following new paragraph:
7	"(5) Notification of article 8 viola-
8	TION.—If the only subsidy under investigation is a
9	subsidy with respect to which the administering au-
10	thority received notice from the Trade Representa-
11	tive of a violation of Article 8 of the Subsidies
12	Agreement, paragraph (1) shall be applied by sub-
13	stituting '60 days' for '65 days'.''.
14	(b) Subsidy Practice Discovered During a Pro-
15	CEEDING.—Section 775 of the Tariff Act of 1930 (19
16	U.S.C. 1677d) is amended to read as follows:
17	"SEC. 775. COUNTERVAILABLE SUBSIDY PRACTICES DIS-
18	COVERED DURING A PROCEEDING.
19	"If, in the course of a proceeding under this title,
20	the administering authority discovers a practice which ap-
21	pears to be a countervailable subsidy, but was not included
22	in the matters alleged in a countervailing duty petition,
23	or if the administering authority receives notice from the
24	Trade Representative that a subsidy or subsidy program
25	is in violation of Article 8 of the Subsidies Agreement,
26	then the administering authority—

1	"(1) shall include the practice, subsidy, or sub-
2	sidy program in the proceeding if the practice, sub-
3	sidy, or subsidy program appears to be a
4	countervailable subsidy with respect to the merchan-
5	dise which is the subject of the proceeding, or
6	"(2) shall transfer the information (other than
7	confidential information) concerning the practice
8	subsidy, or subsidy program to the library main-
9	tained under section 777(a)(1), if the practice, sub-
10	sidy, or subsidy program appears to be a
11	countervailable subsidy with respect to any other
12	merchandise.''.
13	(c) Administrative Reviews.—Section 751 of the
14	Tariff Act of 1930 (19 U.S.C. 1675), as amended, is
15	amended by redesignating subsection (g) as subsection (h)
16	and by inserting after subsection (f) the following new
17	subsection:
18	"(g) Reviews to Implement Results of Sub-
19	SIDIES ENFORCEMENT PROCEEDING.—
20	"(1) Violations of article 8 of the sub-
21	SIDIES AGREEMENT.—If—
22	"(A) the administering authority receives
23	notice from the Trade Representative of a viola-
24	tion of Article 8 of the Subsidies Agreement,

1	"(B) the administering authority has rea-
2	son to believe that merchandise subject to an
3	existing countervailing duty order or suspended
4	investigation is benefiting from the subsidy or
5	subsidy program found to have been in violation
6	of Article 8 of the Subsidies Agreement, and
7	"(C) no review pursuant to subsection
8	(a)(1) is in progress,
9	the administering authority shall conduct a review of
10	the order or suspended investigation to determine
11	whether the subject merchandise benefits from the
12	subsidy or subsidy program found to have been in
13	violation of Article 8 of the Subsidies Agreement. If
14	the administering authority determines that the sub-
15	ject merchandise is benefiting from the subsidy or
16	subsidy program, it shall make appropriate adjust-
17	ments in the estimated duty to be deposited or ap-
18	propriate revisions to the terms of the suspension
19	agreement.
20	"(2) Withdrawal of subsidy or imposition
21	OF COUNTERMEASURES.—If the Trade Representa-
22	tive notifies the administering authority that, pursu-
23	ant to Article 4 or Article 7 of the Subsidies Agree-
2/	mont

1	"(A)(i) the United States has imposed
2	countermeasures, and
3	"(ii) such countermeasures are based on
4	the effects in the United States of imports of
5	merchandise that is the subject of a countervail-
6	ing duty order, or
7	"(B) a WTO member country has with-
8	drawn a countervailable subsidy provided with
9	respect to merchandise subject to a countervail-
10	ing duty order,
11	the administering authority shall conduct a review to
12	determine if the amount of the estimated duty to be
13	deposited should be adjusted or the order should be
14	revoked.
15	"(3) Expedited review.—The administering
16	authority shall conduct reviews under this subsection
17	on an expedited basis, and shall publish the results
18	of such reviews in the Federal Register.".
19	Subtitle C—Effective Date
20	SEC. 291. EFFECTIVE DATE.
21	(a) IN GENERAL.—Except as provided in section 261,
22	the amendments made by this title shall take effect on
23	the date described in subsection (b) and apply with respect
24	to—
25	(1) investigations initiated—

1	(A) on the basis of petitions filed under
2	section 702(b), 732(b), or 783(b) of the Tariff
3	Act of 1930 after the date described in sub-
4	section (b), or
5	(B) by the administering authority under
6	section 702(a) or 732(a) of such Act after such
7	date,
8	(2) reviews initiated under section 751 of such
9	Act—
10	(A) by the administering authority or the
11	Commission on their own initiative after such
12	date, or
13	(B) pursuant to a request filed after such
14	date,
15	(3) investigations initiated under section 753 of
16	such Act after such date,
17	(4) petitions filed under section 780 of such Act
18	after such date, and
19	(5) inquiries initiated under section 781 of such
20	Act—
21	(A) by the administering authority on its
22	own initiative after such date, or
23	(B) pursuant to a request filed after such
24	date.

1	(b) DATE DESCRIBED.—The date described in this
2	subsection is the date on which the WTO Agreement (as
3	defined in section 2(9)) enters into force with respect to
4	the United States.
5	TITLE III—ADDITIONAL IMPLE-
6	MENTATION OF AGREEMENTS
7	Subtitle A—Safeguards
8	SEC. 301. INVESTIGATIONS, DETERMINATIONS, AND REC-
9	OMMENDATIONS BY INTERNATIONAL TRADE
10	COMMISSION.
11	(a) Treatment of Confidential Information.—
12	Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C.
13	2252(a)(8)) is amended by adding at the end the follow-
14	ing: "The Commission may request that parties providing
15	confidential business information furnish nonconfidential
16	summaries thereof or, if such parties indicate that the in-
17	formation in the submission cannot be summarized, the
18	reasons why a summary cannot be provided. If the Com-
19	mission finds that a request for confidentiality is not war-
20	ranted and if the party concerned is either unwilling to
21	make the information public or to authorize its disclosure
22	in generalized or summarized form, the Commission may
23	disregard the submission.".

- 1 (b) Administrative Protective Orders.—Sec-
- 2 tion 202 of the Trade Act of 1974 (19 U.S.C. 2252) is
- 3 amended by adding at the end the following:
- 4 "(i) Limited Disclosure of Confidential Busi-
- 5 NESS INFORMATION UNDER PROTECTIVE ORDER..—The
- 6 Commission shall promulgate regulations to provide access
- 7 to confidential business information under protective order
- 8 to authorized representatives of interested parties who are
- 9 parties to an investigation under this section.".
- 10 (c) Notice of Proceedings.—Section 202(b) of
- 11 the Trade Act of 1974 (19 U.S.C. 2252(b)) is amended
- 12 by striking paragraphs (3) and (4) and inserting the fol-
- 13 lowing:
- 14 "(3) The Commission shall publish notice of the
- commencement of any proceeding under this sub-
- section in the Federal Register and shall, within a
- 17 reasonable time thereafter, hold public hearings at
- which the Commission shall afford interested parties
- and consumers an opportunity to be present, to
- present evidence, to comment on the adjustment
- 21 plan, if any, submitted under subsection (a), to re-
- spond to the presentations of other parties and con-
- sumers, and otherwise to be heard.".
- 24 (d) Critical Circumstances.—

1	(1) IN GENERAL.—Section 202(d)(2) of the
2	Trade Act of 1974 (19 U.S.C. 2252(d)(2)) is
3	amended to read as follows:
4	"(2)(A) When a petition filed under subsection
5	(a) alleges that critical circumstances exist and re-
6	quests that provisional relief be provided under this
7	subsection with respect to imports of the article
8	identified in the petition, the Commission shall, not
9	later than 60 days after the petition containing the
10	request was filed, determine, on the basis of avail-
11	able information, whether—
12	"(i) there is clear evidence that increased
13	imports (either actual or relative to domestic
14	production) of the article are a substantial
15	cause of serious injury, or the threat thereof, to
16	the domestic industry producing an article like
17	or directly competitive with the imported arti-
18	cle; and
19	''(ii) delay in taking action under this
20	chapter would cause damage to that industry
21	that would be difficult to repair.
22	"(B) If the determinations under subparagraph
23	(A)(i) and (ii) are affirmative, the Commission shall
24	find the amount or extent of provisional relief that
25	is necessary to prevent or remedy the serious injury.

- In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.
 - "(C) The Commission shall immediately report to the President its determinations under subparagraph (A)(i) and (ii) and, if the determinations are affirmative, the finding under subparagraph (B).
 - "(D) Within 30 days after receiving a report from the Commission under subparagraph (C) containing an affirmative determination under subparagraph (A)(i) and (ii), the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (B), shall proclaim, for a period not to exceed 200 days, such provisional relief that the President considers necessary to prevent or remedy the serious injury. Such relief shall take the form of an increase in, or the imposition of, a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.".
 - (2) Time limits for determinations.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended—
 - (A) in subsection (b)(2)—

1	(i) in subparagraph (A) by inserting
2	"(180 days if the petition alleges that criti-
3	cal circumstances exist)" after "120 days";
4	and
5	(ii) in subparagraph (B) by inserting
6	"(210 days if the petition alleges that criti-
7	cal circumstances exist)" after "150 days";
8	and
9	(B) in subsection (f)(1) by inserting " (240)
10	days if the petition alleges that critical cir-
11	cumstances exist)" after "180 days".
12	(3) ACTION BY THE PRESIDENT.—Section
13	203(a)(4) of the Trade Act of 1974 (19 U.S.C.
14	2253(a)(4)) is amended—
15	(A) by striking "The" and inserting "(A)
16	Subject to subparagraph (B), the";
17	(B) by inserting after "60 days" the fol-
18	lowing: "(50 days if the President has pro-
19	claimed provisional relief under section
20	202(d)(2)(D) with respect to the article con-
21	cerned)"; and
22	(C) by striking "; except that" and all that
23	follows through "received." and inserting a pe-
24	riod and the following:

1	"(B) If a supplemental report is requested
2	under paragraph (5), the President shall take action
3	under paragraph (1) within 30 days after the sup-
4	plemental report is received, except that, in a case
5	in which the President has proclaimed provisional
6	relief under section $202(d)(2)(D)$ with respect to the
7	article concerned, action by the President under
8	paragraph (1) may not be taken later than the
9	200th day after the provisional relief was pro-
10	claimed.''.
11	(4) Conforming amendments.—Section
12	202(d) of the Trade Act of 1974 (19 U.S.C.
13	2252(d)) is amended—
14	(A) in paragraph (3)—
15	(i) by striking "(2)(B)" and inserting
16	"(2)(D)"; and
17	(ii) by striking "subsection (b)(1)"
18	and inserting "paragraph (2)(A)"; and
19	(B) in paragraph (4)(A)(i) by inserting "or
20	(2)(D)" after "(1)(G)".
21	(e) Factors in Making Determinations.—Sec-
22	tion 202(c) of the Trade Act of 1974 (19 U.S.C. 2252(c))
23	is amended—
24	(1) in paragraph (1)(B)(i) by inserting "pro-
25	ductivity," after "wages,"; and

1	(2) in paragraph (6)—
2	(A) by amending subparagraph (A) to read
3	as follows:
4	``(A)(i) The term 'domestic industry'
5	means, with respect to an article, the producers
6	as a whole of the like or directly competitive ar-
7	ticle or those producers whose collective produc-
8	tion of the like or directly competitive article
9	constitutes a major proportion of the total do-
10	mestic production of such article.
11	"(ii) The term 'domestic industry' includes
12	producers located in the United States insular
13	possessions."; and
14	(B) by adding at the end the following:
15	"(C) The term 'serious injury' means a
16	significant overall impairment in the position of
17	a domestic industry.
18	"(D) The term 'threat of serious injury'
19	means serious injury that is clearly imminent.
20	(f) Limitations on Investigations.—Section
21	202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is
22	amended by adding at the end the following:
23	"(3)(A) Not later than the date on which the
24	Textiles Agreement enters into force with respect to
25	the United States, the Secretary of Commerce shall

1	publish in the Federal Register a list of all articles
2	that are subject to the Textiles Agreement. An in-
3	vestigation may be conducted under this section con-
4	cerning imports of any article that is subject to the
5	Textiles Agreement only if the United States has in-
6	tegrated that article into GATT 1994 pursuant to
7	the Textiles Agreement, as set forth in notices pub-
8	lished in the Federal Register by the Secretary of
9	Commerce, including the notice published under sec-
10	tion 331 of the Uruguay Round Agreements Act.
11	"(B) For purposes of this paragraph:
12	"(i) The term 'Textiles Agreement' means
13	the Agreement on Textiles and Clothing re-
14	ferred to in section 101(d)(4) of the Uruguay
15	Round Agreements Act.
16	''(ii) The term 'GATT 1994' has the
17	meaning given that term in section $2(1)(B)$ of
18	the Uruguay Round Agreements Act.".
19	SEC. 302. ACTION BY PRESIDENT AFTER DETERMINATION
20	OF IMPORT INJURY.
21	(a) Authority to Enter Into International
22	AGREEMENTS.—Section 203 of the Trade Act of 1974 (19
23	U.S.C. 2253) is amended—
24	(1) in subsection (a)(3)(E) by striking "orderly
25	marketing'';

1	(2) in subsection $(d)(1)$ by striking "orderly
2	marketing agreements" and inserting "agreements
3	described in subsection (a)(3)(E)";
4	(3) in subsection (f)—
5	(A) in the subsection heading by striking
6	"Orderly Marketing and Other" and in-
7	serting "Certain";
8	(B) in paragraph (1)—
9	(i) by striking ''orderly marketing
10	agreements" the first place it appears and
11	inserting "agreements of the type de-
12	scribed in subsection (a)(3)(E)"; and
13	(ii) by striking "orderly marketing
14	agreements with foreign countries" and in-
15	serting "agreements of the type described
16	in subsection (a)(3)(E)"; and
17	(C) in paragraph (2) by striking "orderly
18	marketing agreement implemented under sub-
19	section (a)" and inserting "agreement imple-
20	mented under subsection (a)(3)(E)"; and
21	(4) in subsection (g)(2)—
22	(A) in the first sentence by striking "or-
23	derly marketing or other"; and
24	(B) in the second sentence—

1	(i) by striking ''orderly marketing
2	agreement" and inserting "agreement of
3	the type described in subsection $(a)(3)(E)$
4	that is"; and
5	(ii) by striking "agreements" and in-
6	serting "agreement".
7	(b) Limitations on Actions.—
8	(1) Duration of Actions.—Section 203(e)(1)
9	of the Trade Act of 1974 (19 U.S.C. 2253(e)(1)) is
10	amended to read as follows:
11	"(1)(A) Subject to subparagraph (B), the dura-
12	tion of the period in which an action taken under
13	this section may be in effect shall not exceed 4
14	years. Such period shall include the period, if any,
15	in which provisional relief under section 202(d) was
16	in effect.
17	"(B)(i) Subject to clause (ii), the President,
18	after receiving an affirmative determination from the
19	Commission under section 204(c) (or, if the Com-
20	mission is equally divided in its determination, a de-
21	termination which the President considers to be an
22	affirmative determination of the Commission), may
23	extend the effective period of any action under this
24	section if the President determines that—

1	"(I) the action continues to be necessary to
2	prevent or remedy the serious injury; and
3	"(II) there is evidence that the domestic
4	industry is making a positive adjustment to im-
5	port competition.
6	"(ii) The effective period of any action under
7	this section, including any extensions thereof, may
8	not, in the aggregate, exceed 8 years.".
9	(2) Limitation on quantitative restric-
10	TIONS.—Section 203(e)(4) of the Trade Act of 1974
11	(19 U.S.C. 2253(e)(4)) is amended to read as fol-
12	lows:
13	"(4) Any action taken under this section pro-
14	claiming a quantitative restriction shall permit the
15	importation of a quantity or value of the article
16	which is not less than the average quantity or value
17	of such article entered into the United States in the
18	most recent 3 years that are representative of im-
19	ports of such article and for which data are avail-
20	able, unless the President finds that the importation
21	of a different quantity or value is clearly justified in
22	order to prevent or remedy the serious injury.".
23	(3) Phasing-down of actions.—Section
24	203(e)(5) of the Trade Act of 1974 (19 U.S.C.
25	2253(e)(5)) is amended to read as follows:

1	"(5) An action described in subsection
2	(a)(3)(A), (B), or (C) that has an effective period of
3	more than 1 year shall be phased down at regular
4	intervals during the period in which the action is in
5	effect.".
6	(4) Limitations on New Actions and Inves-
7	TIGATIONS OF SAME ARTICLE.—(A) Section 203(e)
8	of the Trade Act of 1974 (19 U.S.C. 2253(e)) is
9	amended by adding at the end the following:
10	"(7)(A) If an article was the subject of an ac-
11	tion under subparagraph (A), (B), (C), or (E) of
12	subsection (a)(3), no new action may be taken under
13	any of those subparagraphs with respect to such ar-
14	ticle for—
15	"(i) a period beginning on the date on
16	which the previous action terminates that is
17	equal to the period in which the previous action
18	was in effect, or
19	"(ii) a period of 2 years beginning on the
20	date on which the previous action terminates,
21	whichever is greater.
22	"(B) Notwithstanding subparagraph (A), if the
23	previous action under subparagraph (A), (B), (C), or
24	(E) of subsection (a)(3) with respect to an article
25	was in effect for a period of 180 days or less, the

1	President may take a new action under any of those
2	subparagraphs with respect to such article if—
3	"(i) at least 1 year has elapsed since the
4	previous action went into effect; and
5	"(ii) an action described in any of those
6	subparagraphs has not been taken with respect
7	to such article more than twice in the 5-year
8	period immediately preceding the date on which
9	the new action with respect to such article first
10	becomes effective.".
11	(B) Section 202(h)(2) of the Trade Act of 1974
12	(19 U.S.C. 2252(h)(2)) is amended to read as fol-
13	lows:
14	"(2) No new investigation shall be conducted
15	with respect to an article that is or has been the
16	subject of an action under section 203(a)(3)(A), (B),
17	(C), or (E) if the last day on which the President
18	could take action under section 203 in the new in-
19	vestigation is a date earlier than that permitted
20	under section 203(e)(7).''.
21	(c) Reports on Monitoring.—Section 204(a) of
22	the Trade Act of 1974 (19 U.S.C. 2354(a)) is amended—
23	(1) by amending paragraph (2) to read as fol-
24	lows:

1	"(2) If the initial period during which the ac-
2	tion taken under section 203 is in effect exceeds 3
3	years, or if an extension of such action exceeds 3
4	years, the Commission shall submit a report on the
5	results of the monitoring under paragraph (1) to the
6	President and to the Congress not later than the
7	date that is the mid-point of the initial period, and
8	of each such extension, during which the action is in
9	effect."; and
10	(2) in paragraph (4) by striking "extension,".
11	(d) Investigation of Extension of Action.—
12	Section 204 of the Trade Act of 1974 (19 U.S.C. 2254)
13	is amended—
14	(1) by redesignating subsections (c) and (d) as
15	subsections (d) and (e), respectively; and
16	(2) by inserting after subsection (b) the follow-
17	ing:
18	"(c) Extension of Action.—
19	"(1) Upon request of the President, or upon pe-
20	tition on behalf of the industry concerned filed with
21	the Commission not earlier than the date which is
22	9 months, and not later than the date which is 6
23	months, before the date any action taken under sec-
24	tion 203 is to terminate, the Commission shall inves-
25	tigate to determine whether action under section 203

- continues to be necessary to prevent or remedy serious injury and whether there is evidence that the in-
- dustry is making a positive adjustment to import competition.
- "(2) The Commission shall publish notice of the 5 commencement of any proceeding under this sub-6 7 section in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at 8 9 which the Commission shall afford interested parties 10 and consumers an opportunity to be present, to 11 present evidence, and to respond to the presen-12 tations of other parties and consumers, and other-
 - "(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under section 203 is to terminate, unless the President specifies a different date.".
- 20 SEC. 303. MISCELLANEOUS AMENDMENTS.

wise to be heard.

- 21 Title II of the Trade Act of 1974 is amended as fol-
- 22 lows:

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- 23 (1) Section 202(a)(2)(B)(ii) (19 U.S.C.
- 24 2252(a)(2)(B)(ii)) is amended by striking ", or at

1	any time before the 150th day after the date of fil-
	v
2	ing be amended to request,".
3	(2) Section 202(b)(1)(A) (19 U.S.C.
4	2252(b)(1)(A)) is amended by striking "(b)" and in-
5	serting ''(a)''.
6	(3) Section $202(d)(1)$ (19 U.S.C. $2252(d)(1)$) is
7	amended—
8	(A) in subparagraph (C)(i) by striking
9	"paragraph (2)" and inserting "subparagraph
10	(B)"; and
11	(B) by striking "or threat thereof" each
12	place it appears in subparagraphs (E) and (G).
13	(4) Section 202(d)(4)(A)(i) (19 U.S.C.
14	2252(d)(4)(A)(i) is amended by striking "203(a)"
15	and inserting "202(b)".
16	(5) Section $202(c)(6)$ (19 U.S.C. $2252(c)(6)$) is
17	amended by striking "subsection" and inserting
18	"section".
19	(6) Section 202(f)(2)(G)(ii) (19 U.S.C.
20	2252(f)(2)(G)(ii)) is amended by striking "is" and
21	inserting "are".
22	(7) Section 203(a)(2)(C) (19 U.S.C.
23	2253(a)(2)(C)) is amended by striking "201(b)" and
24	inserting "202(a)".

1	(8) Section 203(c) (19 U.S.C. 2253(c)) is
2	amended by striking $(c)(2)$ and inserting
3	"(d)(2)".
4	(9) Section 203(e)(2) (19 U.S.C. 2253(e)(2)) is
5	amended—
6	(A) by striking "may be taken under sub-
7	section (a)(1)(A), (B), or (C) or under section
8	202(d)(2)(B)" and inserting "of a type de-
9	scribed in subsection (a)(3)(A), (B), or (C) may
10	be taken under subsection (a)(1), under section
11	202(d)(1)(G), or under section $202(d)(2)(D)$ ";
12	and
13	(B) by striking "or threat thereof".
14	(10) Section 203(e)(6)(B) (19 U.S.C.
15	2253(e)(6)(B)) is amended—
16	(A) by striking "203(c)" and inserting
17	"202(e)"; and
18	(B) by striking "203(a)" and inserting
19	"202(b)".
20	SEC. 304. EFFECTIVE DATE.
21	(a) IN GENERAL.—Except as provided in subsection
22	(b), this subtitle and the amendments made by this sub-
23	title take effect on the date on which the WTO Agreement
24	enters into force with respect to the United States.

1	(b) Section 301(b).—The amendment made by sec-
2	tion 301(b) takes effect on the date of the enactment of
3	this Act.
4	Subtitle B—Foreign Trade Barriers
5	and Unfair Trade Practices
6	SEC. 311. IDENTIFICATION OF FOREIGN ANTICOMPETITIVE
7	PRACTICES.
8	(a) Report to Congress.—
9	(1) Contents of Report.—Section 181(b)(2)
10	of the Trade Act of 1974 (19 U.S.C. 2241(b)(2)) is
11	amended—
12	(A) in subparagraph (A) by striking "or"
13	after the comma;
14	(B) in subparagraph (B) by striking the
15	period and inserting ", or"; and
16	(C) by adding after subparagraph (B) the
17	following:
18	"(C) a section on foreign anticompetitive
19	practices, the toleration of which by foreign
20	governments is adversely affecting exports of
21	United States goods or services.".
22	(2) Assistance of other agencies.—Section
23	181(c) of the Trade Act of 1974 (19 U.S.C.
24	2241(c)) is amended by adding at the end of para-
25	graph (1) the following: "In preparing the section of

1	the report required by subsection $(b)(2)(C)$, the
2	Trade Representative shall consult in particular with
3	the Attorney General.".
4	SEC. 312. CONSULTATION WITH COMMITTEES.
5	Section 181(b)(3) of the Trade Act of 1974 (19
6	U.S.C. 2241(b)(3)) is amended by adding at the end the
7	following: "After the submission of the report required by
8	paragraph (1), the Trade Representative shall also consult
9	periodically with, and take into account the views of, the
10	committees described in that paragraph regarding means
11	to address the foreign trade barriers identified in the re-
12	port, including the possible initiation of investigations
13	under section 302 or other trade actions.".
14	SEC. 313. IDENTIFICATION OF COUNTRIES THAT DENY PRO-
	SEC. 313. IDENTIFICATION OF COUNTRIES THAT DENT PRO-
15	TECTION OF INTELLECTUAL PROPERTY
15	TECTION OF INTELLECTUAL PROPERTY
15 16 17	TECTION OF INTELLECTUAL PROPERTY RIGHTS.
15 16 17	TECTION OF INTELLECTUAL PROPERTY RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C.
15 16 17 18	TECTION OF INTELLECTUAL PROPERTY RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—
15 16 17 18 19	TECTION OF INTELLECTUAL PROPERTY RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended— (1) in subsection (b) by adding at the end the
15 16 17 18 19 20	TECTION OF INTELLECTUAL PROPERTY RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended— (1) in subsection (b) by adding at the end the following:
15 16 17 18 19 20 21	RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended— (1) in subsection (b) by adding at the end the following: "(4) In identifying foreign countries under
15 16 17 18 19 20 21 22	RIGHTS. Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended— (1) in subsection (b) by adding at the end the following: "(4) In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade

1	cluding any previous identification under sub-
2	section (a)(2), and
3	"(B) the history of efforts of the United
4	States, and the response of the foreign country,
5	to achieve adequate and effective protection and
6	enforcement of intellectual property rights.";
7	and
8	(2) in subsection (d)—
9	(A) in paragraph (3) by amending the
10	matter preceding subparagraph (A) to read as
11	follows:
12	"(3) A foreign country denies fair and equitable
13	market access if the foreign country effectively de-
14	nies access to a market for a product protected by
15	a copyright or related right, patent, trademark,
16	mask work, trade secret, or plant breeder's right,
17	through the use of laws, procedures, practices, or
18	regulations which—''; and
19	(B) by adding at the end the following:
20	"(4) A foreign country may be determined to
21	deny adequate and effective protection of intellectual
22	property rights, notwithstanding the fact that the
23	foreign country may be in compliance with the spe-
24	cific obligations of the Agreement on Trade-Related
25	Aspects of Intellectual Property Rights referred to in

1	section 101(d)(15) of the Uruguay Round Agree-
2	ments Act."; and
3	(3) by adding at the end the following:
4	"(g) Annual Report.—The Trade Representative
5	shall, by not later than the date by which countries are
6	identified under subsection (a), transmit to the Committee
7	on Ways and Means of the House of Representatives and
8	the Committee on Finance of the Senate, a report on ac-
9	tions taken under this section during the 12 months pre-
10	ceding such report, and the reasons for such actions, in-
11	cluding a description of progress made in achieving im-
12	proved intellectual property protection and market access
13	for persons relying on intellectual property rights.".
13 14	for persons relying on intellectual property rights.". SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT
14	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT
14 15	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.
141516	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.—
14151617	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.— (1) In General.—Subsections (a)(1) and
1415161718	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.— (1) In general.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19)
141516171819	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.— (1) In General.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by
14 15 16 17 18 19 20 21	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.— (1) In General.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by adding the following sentence at the end:
14 15 16 17 18 19 20 21 22	SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974. (a) Scope of Authority.— (1) In General.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by adding the following sentence at the end: "Actions may be taken that are within the power of the

1	(2) Import restrictions.—Section 301(c)(5)
2	of the Trade Act of 1974 (19 U.S.C. 2411(c)(5)) is
3	amended by striking the matter preceding subpara-
4	graph (B) and inserting the following:
5	"(5) If the Trade Representative determines
6	that actions to be taken under subsection (a) or (b)
7	are to be in the form of import restrictions, the
8	Trade Representative shall—
9	"(A) give preference to the imposition of
10	duties over the imposition of other import re-
11	strictions, and".
12	(b) Relationship With Other Authorities.—
13	Section 301(c) of the Trade Act of 1974 (19 U.S.C.
14	2411(c)) is amended—
15	(1) in paragraph (1)—
16	(A) in subparagraph (B), by striking "or"
17	after the semicolon at the end;
18	(B) by redesignating subparagraph (C) as
19	subparagraph (D); and
20	(C) by inserting after subparagraph (B)
21	the following:
22	"(C) in a case in which the act, policy, or
23	practice also fails to meet the eligibility criteria
24	for receiving duty-free treatment under sub-
25	sections (b) and (c) of section 502 of this Act,

1	subsections (b) and (c) of section 212 of the
2	Caribbean Basin Economic Recovery Act (19
3	U.S.C. 2702(b) and (c)), or subsections (c) and
4	(d) of section 203 of the Andean Trade Pref-
5	erence Act (19 U.S.C. 3202(c) and (d)), with-
6	draw, limit, or suspend such treatment under
7	such provisions, notwithstanding the provisions
8	of subsection (a)(3) of this section; or".
9	(c) Definition of an Unreasonable Act, Pol-
10	ICY, OR PRACTICE.—Section $301(d)(3)$ of the Trade Act
11	of 1974 (19 U.S.C. 2411(d)(3)) is amended—
12	(1) in subparagraph (B)(i) by striking
13	subclauses (II) and (III) and inserting the following:
14	"(II) provision of adequate and effec-
15	tive protection of intellectual property
16	rights notwithstanding the fact that the
17	foreign country may be in compliance with
18	the specific obligations of the Agreement
19	on Trade-Related Aspects of Intellectual
20	Property Rights referred to in section
21	101(d)(15) of the Uruguay Round Agree-
22	ments Act,
23	"(III) nondiscriminatory market ac-
24	cess opportunities for United States per-

1	sons that rely upon intellectual property
2	protection, or
3	"(IV) market opportunities, including
4	the toleration by a foreign government of
5	systematic anticompetitive activities by en-
6	terprises or among enterprises in the for-
7	eign country that have the effect of re-
8	stricting, on a basis that is inconsistent
9	with commercial considerations, access of
10	United States goods or services to a for-
11	eign market,''; and
12	(2) by adding at the end the following:
13	"(F)(i) For the purposes of subparagraph
14	(B)(i)(II), adequate and effective protection of intel-
15	lectual property rights includes adequate and effec-
16	tive means under the laws of the foreign country for
17	persons who are not citizens or nationals of such
18	country to secure, exercise, and enforce rights and
19	enjoy commercial benefits relating to patents, trade-
20	marks, copyrights and related rights, mask works,
21	trade secrets, and plant breeder's rights.
22	"(ii) For purposes of subparagraph (B)(i)(IV),
23	the denial of fair and equitable nondiscriminatory
24	market access opportunities includes restrictions on
25	market access related to the use, exploitation, or en-

1	joyment of commercial benefits derived from exercis-
2	ing intellectual property rights in protected works or
3	fixations or products embodying protected works.".
4	(d) Time Limits For Determinations of Unfair
5	TRADE PRACTICES.—Section 304(a) of the Trade Act of
6	1974 (19 U.S.C. 2414(a)) is amended—
7	(1) in subparagraph (A) of paragraph (2), by
8	striking "(other than the agreement on subsidies
9	and countervailing measures described in section
10	2(c)(5) of the Trade Agreements Act of 1979)",
11	(2)(A) in subparagraph (A) of paragraph (3),
12	by inserting "does not consider that a trade agree-
13	ment, including the Agreement on Trade-Related As-
14	pects of Intellectual Property (referred to in section
15	101(d)(15) of the Uruguay Round Agreements Act),
16	is involved or" after "the Trade Representative" the
17	first place it appears, and
18	(B) in subparagraph (B) of paragraph (3), in
19	the matter preceding clause (i), by striking "any in-
20	vestigation initiated by reason of section 302(b)(2)"
21	and inserting "an investigation initiated by reason of
22	section 302(b)(2) (other than an investigation in-
23	volving a trade agreement)", and
24	(3) in paragraph (4), by striking "(other than
25	the agreement on subsidies and countervailing meas-

- 1 ures described in section 2(c)(5) of the Trade Agree-
- 2 ments Act of 1979)".
- 3 (e) Monitoring of Foreign Compliance.—Sub-
- 4 sections (a) and (b) of section 306 of the Trade Act of
- 5 1974 (19 U.S.C. 2416) are amended to read as follows:
- 6 "(a) IN GENERAL.—The Trade Representative shall
- 7 monitor the implementation of each measure undertaken,
- 8 or agreement that is entered into, by a foreign country
- 9 to provide a satisfactory resolution of a matter subject to
- 10 investigation under this chapter or subject to dispute set-
- 11 tlement proceedings to enforce the rights of the United
- 12 States under a trade agreement providing for such pro-
- 13 ceedings.
- 14 "(b) Further Action.—
- 15 "(1) IN GENERAL.—If, on the basis of the mon-
- itoring carried out under subsection (a), the Trade
- 17 Representative considers that a foreign country is
- not satisfactorily implementing a measure or agree-
- ment referred to in subsection (a), the Trade Rep-
- resentative shall determine what further action the
- 21 Trade Representative shall take under section
- 301(a). For purposes of section 301, any such deter-
- 23 mination shall be treated as a determination made
- 24 under section 304(a)(1).".

1	"(2) WTO DISPUTE SETTLEMENT REC-
2	OMMENDATIONS.—If the measure or agreement re-
3	ferred to in subsection (a) concerns the implementa-
4	tion of a recommendation made pursuant to dispute
5	settlement proceedings under the World Trade Orga-
6	nization, and the Trade Representative considers
7	that the foreign country has failed to implement it,
8	the Trade Representative shall make the determina-
9	tion in paragraph (1) no later than 30 days after the
10	expiration of the reasonable period of time provided
11	for such implementation under paragraph 21 of the
12	Understanding on Rules and Procedures Governing
13	the Settlement of Disputes that is referred to in sec-
14	tion 101(d)(16) of the Uruguay Round Agreements
15	Act.".
16	(f) Extension of Section 310 of the Trade Act
17	OF 1974.—Section 310 of the Trade Act of 1974 (19
18	U.S.C. 2420) is amended to read as follows:
19	"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIOR-
20	ITIES.
21	"(a) IDENTIFICATION.—
22	"(1) Within 180 days after the submission in
23	calendar year 1995 of the report required by section
24	181(b), the Trade Representative shall—

1	"(A) review United States trade expansion
2	priorities,
3	"(B) identify priority foreign country prac-
4	tices, the elimination of which is likely to have
5	the most significant potential to increase Unit-
6	ed States exports, either directly or through the
7	establishment of a beneficial precedent, and
8	"(C) submit to the Committee on Finance
9	of the Senate and the Committee on Ways and
10	Means of the House of Representatives and
11	publish in the Federal Register a report on the
12	priority foreign country practices identified.
13	"(2) In identifying priority foreign country
14	practices under paragraph (1) of this section, the
15	Trade Representative shall take into account all rel-
16	evant factors, including—
17	"(A) the major barriers and trade distort-
18	ing practices described in the National Trade
19	Estimate Report required under section 181(b);
20	"(B) the trade agreements to which a for-
21	eign country is a party and its compliance with
22	those agreements;
23	"(C) the medium- and long-term implica-
24	tions of foreign government procurement plans;
25	and

1	"(D) the international competitive position
2	and export potential of United States products
3	and services.
4	"(3) The Trade Representative may include in
5	the report, if appropriate—
6	"(A) a description of foreign country prac-
7	tices that may in the future warrant identifica-
8	tion as priority foreign country practices; and
9	"(B) a statement about other foreign coun-
10	try practices that were not identified because
11	they are already being addressed by provisions
12	of United States trade law, by existing bilatera
13	trade agreements, or as part of trade negotia-
14	tions with other countries and progress is being
15	made toward the elimination of such practices
16	"(b) Initiation of Investigations.—By no later
17	than the date which is 21 days after the date on which
18	a report is submitted to the appropriate congressional
19	committees under subsection (a)(1), the Trade Represent-
20	ative shall initiate under section 302(b)(1) investigations
21	under this chapter with respect to all of the priority for-
22	eign country practices identified.
23	"(c) Agreements for the Elimination of Bar-
24	RIERS.—In the consultations with a foreign country that
25	the Trade Representative is required to request under sec-

- 1 tion 303(a) with respect to an investigation initiated by
- 2 reason of subsection (b), the Trade Representative shall
- 3 seek to negotiate an agreement that provides for the elimi-
- 4 nation of the practices that are the subject of the inves-
- 5 tigation as quickly as possible or, if elimination of the
- 6 practices is not feasible, an agreement that provides for
- 7 compensatory trade benefits.
- 8 "(d) Reports.—The Trade Representative shall in-
- 9 clude in the semiannual report required by section 309
- 10 a report on the status of any investigations initiated pur-
- 11 suant to subsection (b) and, where appropriate, the extent
- 12 to which such investigations have led to increased opportu-
- 13 nities for the export of products and services of the United
- 14 States.".

15 SEC. 315. OBJECTIVES IN INTELLECTUAL PROPERTY.

- 16 It is the objective of the United States—
- 17 (1) to accelerate the implementation of the
- 18 Agreement on Trade-Related Aspects of Intellectual
- 19 Property Rights referred to in section 101(d)(15),
- 20 (2) to seek enactment and effective implementa-
- 21 tion by foreign countries of laws to protect and en-
- force intellectual property rights that supplement
- and strengthen the standards of the Agreement on
- 24 Trade-Related Aspects of Intellectual Property
- Rights referred to in section 101(d)(15) and the

1	North American Free Trade Agreement and, in par-
2	ticular—
3	(A) to conclude bilateral and multilateral
4	agreements that create obligations to protect
5	and enforce intellectual property rights that
6	cover new and emerging technologies and new
7	methods of transmission and distribution, and
8	(B) to prevent or eliminate discrimination
9	with respect to matters affecting the availabil-
10	ity, acquisition, scope, maintenance, use, and
11	enforcement of intellectual property rights,
12	(3) to secure fair, equitable, and nondiscrim-
13	inatory market access opportunities for United
14	States persons that rely upon intellectual property
15	protection,
16	(4) to take an active role in the development of
17	the intellectual property regime under the World
18	Trade Organization to ensure that it is consistent
19	with other United States objectives, and
20	(5) to take an active role in the World Intellec-
21	tual Property Organization (WIPO) to develop a co-
22	operative and mutually supportive relationship be-
23	tween the World Trade Organization and WIPO.

1	SEC. 316. EFFECTIVE DATE.
2	(a) In General.—Except as provided in subsection
3	(b), this subtitle and the amendments made by this sub-
4	title take effect on the date on which the WTO Agreement
5	enters into force with respect to the United States.
6	(b) Section 314(f).—The amendment made by sec-
7	tion 314(f) takes effect on the date of the enactment of
8	this Act.
9	Subtitle C—Unfair Practices in
10	Import Trade
11	SEC. 321. UNFAIR PRACTICES IN IMPORT TRADE.
12	(a) Amendments to Section 337 of the Tariff
13	ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19
14	U.S.C. 1337) is amended as follows:
15	(1) Investigation.—Subsection (b) is amend-
16	ed—
17	(A) by striking "; Time Limits" in the
18	heading;
19	(B) in paragraph (1) by striking all that
20	follows the second sentence and inserting the
21	following: "The Commission shall conclude any
22	such investigation and make its determination
23	under this section at the earliest practicable
24	time after the date of publication of notice of

such investigation. To promote expeditious ad-

judication, the Commission shall, within 45

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1	days after an investigation is initiated, establish
2	a target date for its final determination."; and
3	(C) in paragraph (3)—
4	(i) in the first sentence—
5	(I) by striking "the Tariff Act of
6	1930" and inserting "this Act"; and
7	(II) by striking "such Act" and
8	inserting "such subtitle"; and
9	(ii) by striking the fifth sentence.
10	(2) DETERMINATION; REVIEW.—Subsection (c)
11	is amended—
12	(A) in the first sentence by striking "a set-
13	tlement agreement" and inserting "an agree-
14	ment between the private parties to the inves-
15	tigation, including an agreement to present the
16	matter for arbitration";
17	(B) by inserting the following after the
18	third sentence: "A respondent may raise any
19	counterclaim in a manner prescribed by the
20	Commission. Immediately after a counterclaim
21	is received by the Commission, the respondent
22	raising such counterclaim shall file a notice of
23	removal with a United States district court in
24	which venue for any of the counterclaims raised
25	by the party would exist under section 1391 of

1	title 28, United States Code. Any counterclaim
2	raised pursuant to this section shall relate back
3	to the date of the original complaint in the pro-
4	ceeding before the Commission. Action on such
5	counterclaim shall not delay or affect the pro-
6	ceeding under this section, including the legal
7	and equitable defenses that may be raised
8	under this subsection."; and
9	(C) by adding at the end the following:
10	"Determinations by the Commission under sub-
11	sections (e), (f), and (j) with respect to forfeit-
12	ure of bonds and under subsection (h) with re-
13	spect to the imposition of sanctions for abuse of
14	discovery or abuse of process shall also be
15	reviewable in accordance with section 706 of
16	title 5, United States Code.".
17	(3) Entry under bond.—Subsection (e) is
18	amended—
19	(A) in the last sentence of paragraph (1)
20	by striking "determined by the Commission"
21	and all that follows through the end of the sen-
22	tence and inserting "prescribed by the Sec-
23	retary in an amount determined by the Com-

mission to be sufficient to protect the complain-

ant from any injury. If the Commission later

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1	determines that the respondent has violated the
2	provisions of this section, the bond may be for-
3	feited to the complainant.";
4	(B) by adding at the end of paragraph (2)
5	the following: "If the Commission later deter-
6	mines that the respondent has not violated the
7	provisions of this section, the bond may be for-
8	feited to the respondent."; and
9	(C) by adding at the end the following new
10	paragraph:
11	"(4) The Commission shall prescribe the terms and
12	conditions under which bonds may be forfeited under
13	paragraphs (1) and (2).".
14	(4) Cease and desist orders.—Subsection
15	(f)(1) is amended by adding at the end the follow-
16	ing: "If a temporary cease and desist order is issued
17	in addition to, or in lieu of, an exclusion order under
18	subsection (e), the Commission may require the com-
19	plainant to post a bond, in an amount determined
20	by the Commission to be sufficient to protect the re-
21	spondent from any injury, as a prerequisite to the
22	issuance of an order under this subsection. If the
23	Commission later determines that the respondent
24	has not violated the provisions of this section, the
25	bond may be forfeited to the respondent. The Com-

1	mission shall prescribe the terms and conditions
2	under which the bonds may be forfeited under this
3	paragraph.''.
4	(5) Conditions applicable for general
5	EXCLUSION ORDERS.—(A) Subsection (d) is amend-
6	ed—
7	(i) by inserting "(1)" before "If";
8	(ii) in the first sentence by striking "there
9	is violation" and inserting "there is a viola-
10	tion''; and
11	(iii) by adding at the end the following new
12	paragraph:
13	"(2) The authority of the Commission to order an
14	exclusion from entry of articles shall be limited to persons
15	determined by the Commission to be violating this section
16	unless the Commission determines that—
17	"(A) a general exclusion from entry of articles
18	is necessary to prevent circumvention of an exclusion
19	order limited to products of named persons; or
20	"(B) there is a pattern of violation of this sec-
21	tion and it is difficult to identify the source of in-
22	fringing products.".
23	(B) Subsection (g)(2) is amended—
24	(i) by striking "and" at the end of sub-
25	paragraph (A);

1	(ii) by striking the period at the end of
2	subparagraph (B) and inserting ", and"; and
3	(iii) by adding after subparagraph (B) the
4	following:
5	$^{\prime\prime}(C)$ the requirements of subsection (d)(2) are
6	met.".
7	(6) Entry under bond after referral to
8	THE PRESIDENT.—Subsection (j)(3) is amended by
9	striking "shall be entitled to entry under bond" and
10	all that follows through the end of the sentence and
11	inserting "shall, until such determination becomes
12	final, be entitled to entry under bond prescribed by
13	the Secretary in an amount determined by the Com-
14	mission to be sufficient to protect the complainant
15	from any injury. If the determination becomes final,
16	the bond may be forfeited to the complainant. The
17	Commission shall prescribe the terms and conditions
18	under which bonds may be forfeited under this para-
19	graph.''.
20	(7) Access to confidential information.—
21	Subsection (n)(2) is amended—
22	(A) by amending subparagraph (A) to read
23	as follows:
24	"(A) an officer or employee of the Commission
25	who is directly concerned with—

1	''(i) carrying out the investigation or relat-
2	ed proceeding in connection with which the in-
3	formation is submitted,
4	"(ii) the administration of a bond posted
5	pursuant to subsection (e), (f), or (j),
6	"(iii) the administration or enforcement of
7	an exclusion order issued pursuant to sub-
8	section (d), (e), or (g), a cease and desist order
9	issued pursuant to subsection (f), or a consent
10	order issued pursuant to subsection (c),
11	"(iv) proceedings for the modification or
12	rescission of a temporary or permanent order
13	issued under subsection (d), (e), (f), (g), or (i),
14	or a consent order issued under this section, or
15	"(v) maintaining the administrative record
16	of the investigation or related proceeding,"; and
17	(B) by amending subparagraph (C) to read
18	as follows:
19	"(C) an officer or employee of the United
20	States Customs Service who is directly involved in
21	administering an exclusion from entry under sub-
22	section (d), (e), or (g) resulting from the investiga-
23	tion or related proceeding in connection with which
24	the information is submitted.".

1	(8) TECHNICAL AMENDMENT.—Subsection (I) is
2	amended by striking "Claims Court" and inserting
3	"Court of Federal Claims".
4	(b) Amendments to Title 28, United States
5	Code.—
6	(1) Stay of actions.—
7	(A) IN GENERAL.—Chapter 111 of title
8	28, United States Code, is amended by adding
9	at the end the following new section:
10	"§ 1659. Stay of certain actions pending disposition of
11	related proceedings before the United
12	States International Trade Commission
13	"(a) Stay.—In a civil action involving parties that
14	are also parties to a proceeding before the United States
15	International Trade Commission under section 337 of the
16	Tariff Act of 1930, at the request of a party to the civil
17	action that is also a respondent in the proceeding before
18	action that is also a respondent in the proceeding serore
U	the Commission, the district court shall stay, until the de-
19	the Commission, the district court shall stay, until the de-
19 20	the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings
19 20	the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves
19 20 21	the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Com-
19 20 21 22	the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

1	"(2) 30 days after the district court action is
2	filed,
3	whichever is later.
4	"(b) Use of Commission Record.—Notwithstand-
5	ing section 337(n)(1) of the Tariff Act of 1930, after dis-
6	solution of a stay under subsection (a), the record of the
7	proceeding before the United States International Trade
8	Commission shall be transmitted to the district court and
9	shall be admissible in the civil action, subject to such pro-
0	tective order as the district court determines necessary,
1	to the extent permitted under the Federal Rules of Evi-
2	dence and the Federal Rules of Civil Procedure.".
3	(B) CLERICAL AMENDMENT.—The table of
4	sections for chapter 111 of title 28, United
5	States Code, is amended by adding at the end
6	the following new item:
	"1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission.".
7	(2) Counterclaims.—Section 1446 of title 28,
8	United States Code, is amended by adding at the
9	end the following:
20	"(f) With respect to any counterclaim removed to a
21	district court pursuant to section 337(c) of the Tariff Act
22	of 1930, the district court shall resolve such counterclaim
23	in the same manner as an original complaint under the
2	Federal Rules of Civil Procedure except that the payment

1	of a filing fee shall not be required in such cases and the
2	counterclaim shall relate back to the date of the original
3	complaint in the proceeding before the International
4	Trade Commission under section 337 of that Act.".
5	(3) Jurisdiction.—
6	(A) IN GENERAL.—Chapter 85 of title 28,
7	United States Code, is amended by adding at
8	the end the following:
9	"§ 1368. Counterclaims in unfair practices in inter-
10	national trade.
11	"The district courts shall have original jurisdiction
12	of any civil action based on a counterclaim raised pursuant
13	to section 337(c) of the Tariff Act of 1930, to the extent
14	that it arises out of the transaction or occurrence that is
15	the subject matter of the opposing party's claim in the
16	proceeding under section 337(a) of that Act.''.
17	(B) CLERICAL AMENDMENT.—The table of
18	sections for chapter 85 of title 28, United
19	States Code, is amended by adding at the end
20	the following:
	"1368. Counterclaims in unfair practices in international trade.".
21	SEC. 322. EFFECTIVE DATE.
22	The amendments made by this subtitle apply—
23	(1) with respect to complaints filed under sec-
24	tion 337 of the Tariff Act of 1930 on or after the

1	date on which the WTO Agreement enters into force
2	with respect to the United States, or
3	(2) in cases under such section 337 in which no
4	complaint is filed, with respect to investigations ini-
5	tiated under such section on or after such date.
6	Subtitle D—Textiles
7	SEC. 331. TEXTILE PRODUCT INTEGRATION.
8	Not later than 120 days after the date that the WTO
9	Agreement, as defined in section 2(9) of the Uruguay
10	Round Implementation Act, enters into force with respect
11	to the United States, the Secretary of Commerce shall
12	publish in the Federal Register a notice containing the list
13	of products to be integrated in each stage set out in Article
14	2(8) of the Agreement on Textiles and Clothing referred
15	to in section 101(d)(4). After publication of such list, the
16	list may not be changed unless otherwise required by stat-
17	ute or the international obligations of the United States,
18	to correct technical errors, or to reflect reclassifications.
19	Within 30 days after the publication of such list, the
20	Trade Representative shall notify the list to the Textiles
21	Monitoring Body established under Article 8 of the Agree-

22 ment on Textiles and Clothing.

1	SEC. 332. AMENDMENT TO SECTION 204 OF THE AGRICUL-
2	TURAL ACT OF 1956.
3	Section 204 of the Agricultural Act of 1956 (7 U.S.C.
4	1854) is amended by amending the second sentence to
5	read as follows: "In addition, if a multilateral agreement,
6	including but not limited to the Agreement on Textiles and
7	Clothing referred to in section $101(d)(4)$ of the Uruguay
8	Round Implementation Act, has been or is concluded
9	under the authority of this section among countries ac-
10	counting for a significant part of world trade in the arti-
11	cles with respect to which the agreement was concluded,
12	the President may also issue, in order to carry out such
13	$agreement, \ regulations \ governing \ the \ entry \ or \ withdrawal$
14	from warehouse of the same articles which are the prod-
15	ucts of countries not parties to the agreement, or countries
16	to which the United States does not apply the agree-
17	ment.''.
18	SEC. 333. TEXTILE TRANSSHIPMENTS.
19	Part V of title IV of the Tariff Act of 1930 is amend-
20	ed by inserting after section 592 the following:
21	"SEC. 592A. SPECIAL PROVISIONS REGARDING CERTAIN
22	VIOLATIONS.
23	"(a) Publication of Names of Certain Viola-
24	TORS.—
25	"(1) Publication.—The Secretary of the
26	Treasury is authorized to publish in the Federal

1	Register a list of the name of any producer, manu-
2	facturer, supplier, seller, exporter, or other person
3	located outside the customs territory of the United
4	States—
5	"(A) against whom the Customs Service
6	has issued a penalty claim under section 592,
7	and
8	"(B) if a petition with respect to that
9	claim has been filed under section 618, against
10	whom a final decision has been issued under
11	such section after exhaustion of administrative
12	remedies,
13	citing any of the violations of the customs laws re-
14	ferred to in paragraph (2). Such list shall be pub-
15	lished not later than March 31 and September 30 of
16	each year.
17	"(2) VIOLATIONS.—. The violations of the cus-
18	toms laws referred to in paragraph (1) are the fol-
19	lowing:
20	"(A) Using documentation, or providing
21	documentation subsequently used by the im-
22	porter of record, which indicates a false or
23	fraudulent country of origin or source of textile
24	or apparel products.

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1	"(B) Using counterfeit visas, licenses, per-
2	mits, bills of lading, or similar documentation,
3	or providing counterfeit visas, licenses, permits,
4	bills of lading, or similar documentation that is
5	subsequently used by the importer of record,
6	with respect to the entry into the customs terri-
7	tory of the United States of textile or apparel
8	products.
9	"(C) Manufacturing, producing, supplying,
10	or selling textile or apparel products which are
11	falsely or frauduently labelled as to country of

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origin or source.

"(D) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

"(3) Removal from list.—Any person whose name has been included in a list published under paragraph (1) may petition the Secretary to be removed from such list. If the Secretary finds that such person has not committed any violations de-

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scribed in paragraph (2) for a period of not less than 3 years after the date on which the person's name was so published, the Secretary shall remove such person from the list as of the next publication of the list under paragraph (2).

"(4) Reasonable care required for subsequent imports.—

"(A) RESPONSIBILITY OF IMPORTERS AND OTHERS.—After the name of a person has been published under paragraph (1), the Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labelling that are accurate as to its origin. Such reasonable care shall not include reliance solely on a source of information which is the named person.

"(B) Failure to exercise reasonable care.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(b) LIST OF HIGH RISK COUNTRIES.—

"(1) List.—The President or his designee, upon the advice of the Secretaries of Commerce and Treasury, and the heads of other appropriate departments and agencies, is authorized to publish a list of countries in which illegal activities have occurred involving transshipped textile or apparel products or activities designed to evade quotas of the United States on textile or apparel products, if those countries fail to demonstrate a good faith effort to cooperate with United States authorities in ceasing such activities. Such list shall be published in the Federal Register not later than March 31 of each year. Any country that is on the list and that subsequently demonstrates a good faith effort to cooperate with United States authorities in ceasing illegal

activities described in the first sentence shall be re-
moved from the list, and such removal shall be pub-
lished in the Federal Register as soon as practicable.

"(2) Reasonable care required for subsequent imports.—

"(A) RESPONSIBILITY OF IMPORTERS OF RECORD.—The Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products indicated, on the documentation, packaging, or labelling accompanying such products, to be from any country on the list published under paragraph (1) to show, to the satisfaction of the Secretary, that such importer, consignee, or purchaser has exercised reasonable care to ascertain the true country of origin of the textile or apparel products.

"(B) Failure to exercise reasonable care.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether

1	the importer of record is in violation of section
2	484(a).
3	"(3) Definition.—For purposes of this sub-
4	section, the term 'country' means a foreign country
5	or territory, including any overseas dependent terri-
6	tory or possession of a foreign country.".
7	SEC. 334. RULES OF ORIGIN FOR TEXTILE AND APPAREL
8	PRODUCTS.
9	(a) REGULATORY AUTHORITY.—The Secretary of the
10	Treasury shall prescribe rules implementing the principles
11	contained in subsection (b) for determining the origin of
12	textiles and apparel products. Such rules shall be promul-
13	gated in final form not later than July 1, 1995.
14	(b) Principles.—
15	(1) In general.—Except as otherwise pro-
16	vided for by statute, a textile or apparel product, for
17	purposes of the customs laws and the administration
18	of quantitative restrictions, originates in a country,
19	territory, or insular possession, and is the growth,
20	product, or manufacture of that country, territory,
21	or insular possession, if—
22	(A) the product is wholly obtained or pro-
23	duced in that country, territory, or possession;
24	(B) the product is a yarn, thread, twine,
25	cordage, rope, cable, or braiding and—

1	(i) the constituent staple fibers are
2	spun in that country, territory, or posses-
3	sion, or
4	(ii) the continuous filament is ex-
5	truded in that country, territory, or posses-
6	sion,
7	(C) the product is a fabric, including a
8	fabric classified under chapter 59 of the HTS,
9	and the constituent fibers, filaments, or yarns
10	are woven, knitted, needled, tufted, felted, en-
11	tangled, or transformed by any other fabric-
12	making process in that country, territory, or
13	possession; or
14	(D) the product is any other textile or ap-
15	parel product that is wholly assembled in that
16	country, territory, or possession from its compo-
17	nent pieces.
18	(2) Special rules.—Notwithstanding para-
19	graph (1)(D)—
20	(A) the origin of a good that is classified
21	under one of the following HTS headings or
22	subheadings shall be determined under subpara-
23	graph (A), (B), or (C) of paragraph (1), as ap-
24	propriate: 5609, 5807, 5811, 6209.20.50.40,

1	6213, 6214, 6301, 6302, 6303, 6304, 6305,
2	6306, 6307.10, 6307.90, 6308, or 9404.90; and
3	(B) a textile or apparel product which is
4	knit to shape shall be considered to originate in,
5	and be the growth, product, or manufacture of,
6	the country, territory, or possession in which it
7	is knit.
8	(3) MULTICOUNTRY RULE.—If the origin of a
9	good cannot be determined under paragraph (1) or
10	(2), then that good shall be considered to originate
11	in, and be the growth, product, or manufacture of-
12	(A) the country, territory, or possession in
13	which the most important assembly or manufac-
14	turing process occurs, or
15	(B) if the origin of the good cannot be de-
16	termined under subparagraph (A), the last
17	country, territory, or possession in which impor-
18	tant assembly or manufacturing occurs.
19	(4) Components cut in the united
20	STATES.—(A) The value of a component that is cut
21	to shape (but not to length, width, or both) in the
22	United States from foreign fabric and exported to
23	another country, territory, or insular possession for
24	assembly into an article that is then returned to the
25	United States—

1	(i) shall not be included in the dutiable
2	value of such article, and
3	(ii) may be applied toward determining the
4	percentage referred to in General Note
5	7(b)(i)(B) of the HTS, subject to the limitation
6	provided in that note.
7	(B) No article (except a textile or apparel prod-
8	uct) assembled in whole of components described in
9	subparagraph (A), or of such components and com-
10	ponents that are products of the United States, in
11	a beneficiary country as defined in General Note
12	7(a) of the HTS shall be treated as a foreign article,
13	or as subject to duty if—
14	(i) the components after exportation from
15	the United States, and
16	(ii) the article itself before importation into
17	the United States
18	do not enter into the commerce of any foreign coun-
19	try other than such a beneficiary country.
20	(5) Exception for united states-israel
21	FREE TRADE AGREEMENT.—This section shall not
22	affect, for purposes of the customs laws and admin-
23	istration of quantitative restrictions, the status of
24	goods that, under rulings and administrative prac-
25	tices in effect immediately before the enactment of

1	this Act, would have originated in, or been the
2	growth, product, or manufacture of, a country that
3	is a party to an agreement with the United States
4	establishing a free trade area, which entered into
5	force before January 1, 1987. For such purposes,
6	such rulings and administrative practices that were
7	applied, immediately before the enactment of this
8	Act, to determine the origin of textile and apparel
9	products covered by such agreement shall continue
10	to apply after the enactment of this Act, and on and
11	after the effective date described in subsection (c),
12	unless such rulings and practices are modified by
13	the mutual consent of the parties to the agreement.
14	(c) Effective Date.—This section shall apply to
15	goods entered, or withdrawn from warehouse, for con-
16	sumption on or after July 1, 1996, except that this section
17	shall not apply to goods if—
18	(1) the contract for the sale of such goods to
19	the United States is entered into before July 20,
20	1994;

- (2) all of the material terms of sale in such contract, including the price and quantity of the goods, are fixed and determinable before July 20, 1994;
- (3) a copy of the contract is filed with the Com missioner of Customs within 60 days after the date

1	of the enactment of this Act, together with a certifi-
2	cation that the contract meets the requirements of
3	paragraphs (1) and (2); and
4	(4) the goods are entered, or withdrawn from
5	warehouse, for consumption on or before January 1,
6	1998.
7	The origin of goods to which this section does not apply
8	shall be determined in accordance with the applicable rules
9	in effect on July 20, 1994.
10	SEC. 335. EFFECTIVE DATE.
11	Except as provided in section 334, this subtitle and
12	the amendments made by this subtitle take effect on the
13	date on which the WTO Agreement enters into force with
14	respect to the United States.
15	Subtitle E—Government
16	Procurement
17	SEC. 341. MONITORING AND ENFORCEMENT OF THE
18	AGREEMENT ON GOVERNMENT PROCURE-
19	MENT.
20	(a) IN GENERAL.—Section 305(f)(2) of the Trade
21	Agreements Act of 1979 (19 U.S.C. 2515(f)(2)) is amend-
22	ed—
23	(1) in the matter preceding subparagraph (A),
24	by striking "a year" and inserting "the 18 months",

1	(2) by striking "or" at the end of subparagraph
2	(B),
3	(3) by redesignating subparagraph (C) as sub-
4	paragraph (D), and
5	(4) by inserting after subparagraph (B), the
6	following new subparagraph:
7	"(C) the procedures result in a determina-
8	tion providing a specific period of time for the
9	other participant to bring its practices into
10	compliance with the Agreement, or".
11	(b) Sanctions After Dispute Resolution
12	Fails.—
13	(1) Sanctions.—Paragraph (3) of section
14	305(f) of such Act (19 U.S.C. 2515(f)(3)) is amend-
15	ed to read as follows:
16	"(3) Sanctions after dispute resolution
17	FAILS.—
18	"(A) Failures resulting in sanc-
19	TIONS.—If—
20	"(i) within 18 months from the date
21	dispute settlement procedures are initiated
22	with a signatory country pursuant to this
23	section—
24	"(I) such procedures are not con-
25	cluded, or

1	"(II) the country has not met the
2	requirements of subparagraph (A) or
3	(B) of paragraph (2), or
4	"(ii) the period of time provided for
5	pursuant to paragraph (2)(C) has expired
6	and procedures for suspending concessions
7	under the Agreement have been completed,
8	then the sanctions described in subparagraph
9	(B) shall be imposed.
10	"(B) Sanctions.—
11	"(i) In general.—If subparagraph
12	(A) applies to any signatory country—
13	"(I) the signatory country shall
14	be considered as a signatory not in
15	good standing of the Agreement and
16	the prohibition on procurement con-
17	tained in section 4 of the Act of
18	March 3, 1933 (41 U.S.C. 10b-1)
19	shall apply to such country, and
20	"(II) the President shall revoke
21	the waiver of discriminatory purchas-
22	ing requirements granted to the signa-
23	tory country pursuant to section
24	301(a).

1	"(ii) Time sanctions are im-
2	POSED.—Any sanction—
3	``(I) described in clause (i)(I)
4	shall apply from the date that is the
5	last day of the 18-month period de-
6	scribed in subparagraph (A)(i) or, in
7	the case of paragraph (2)(C), from
8	the date procedures for suspending
9	concessions under the Agreement have
10	been completed, and
11	"(II) described in clause (i)(II)
12	shall apply beginning on the day after
13	the date described in subclause (I).".
14	(2) Conforming Amendment.—Paragraph (4)
15	of section 305(f) of such Act (19 U.S.C. 2515(f)(4))
16	is amended by striking "subparagraph (A) or (B) of
17	paragraph (3)" and inserting "subclause (I) or (II)
18	of paragraph (3)(B)(i)".
19	(c) Report to Congress.—
20	(1) Section 305(d)(2) of the Trade Agreements
21	Act of 1979 (19 U.S.C. 2515(d)(2)) is amended by
22	adding at the end the following new subparagraphs:
23	"(D)(i) are not signatories to the Agree-
24	ment;

1	"(ii) fail to apply transparent and competi-
2	tive procedures to its government procurement
3	equivalent to those in the Agreement; and
4	"(iii) whose products or services are ac-
5	quired in significant amounts by the United
6	States Government; or
7	"(E)(i) are not signatories to the Agree-
8	ment;
9	"(ii) fail to maintain and enforce effective
10	prohibitions on bribery and other corrupt prac-
11	tices in connection with government procure-
12	ment; and
13	"(iii) whose products or services are ac-
14	quired in significant amounts by the United
15	States Government.".
16	(2) Section 305(d)(3)(C) of the Trade Agree-
17	ments Act of 1979 (19 U.S.C. 2515(d)(3)(C)) is
18	amended by adding before the period at the end the
19	following: ", including the failure to maintain and
20	enforce effective prohibitions on bribery and other
21	corrupt practices in connection with government pro-
22	curement''.
23	SEC. 342. CONFORMING AMENDMENTS.
24	(a) Waiver of Discriminatory Purchasing Re-
25	QUIREMENTS REGARDING PURCHASES OF CIVIL AIR-

- 1 CRAFT.—Section 303 of the Trade Agreements Act of
- 2 1979 (19 U.S.C. 2513) is amended by inserting "referred
- 3 to in section 2(c) and approved under section 2(a)" after
- 4 "Civil Aircraft".
- 5 (b) Expansion of Coverage of the Agree-
- 6 MENT.—Section 304 of the Trade Agreements Act of 1979
- 7 (19 U.S.C. 2514) is amended—
- 8 (1) in subsections (a) and (c) by striking "part
- 9 IX, paragraph 6" and inserting "article XXIV(7);
- 10 (2) in subsection (c) by striking "part VI, para-
- graph 9" and inserting "article XIX(5)"; and
- 12 (3) in subsection (e) by striking "date of enact-
- ment of this Act" and inserting "date it enters into
- force with respect to the United States".
- 15 (c) Annual Report on Foreign Discrimina-
- 16 TION.—Section 305(d) of the Trade Agreements Act of
- 17 1979 (19 U.S.C. 2515(d)) is amended by striking out
- 18 "April 30, 1990, and annually on April 30 thereafter,"
- 19 and inserting "April 30 of each year,".
- 20 (d) Labor Surplus Area Studies.—Section 306
- 21 of the Trade Agreements Act of 1979 (19 U.S.C. 2516),
- 22 and the item relating to such section in the table of con-
- 23 tents for such Act, are repealed.
- 24 (e) Availability of Information to Congres-
- 25 SIONAL ADVISORS.—Section 307 of the Trade Agreements

1	Act of 1979 (19 U.S.C. 2517) is amended by striking
2	"part VI, paragraph 9," and inserting "article XIX(5)".
3	(f) Definitions.—Section 308 of the Trade Agree-
4	ments Act of 1979 (19 U.S.C. 2518) is amended—
5	(1) in paragraph (1) by striking "section 2(c)
6	of this Act" and inserting "section 101(d)(17) of the
7	Uruguay Round Agreements Act"; and
8	(2) in paragraph (4)—
9	(A) in subparagraph (C) by striking "hav-
10	ing a contract value" and all that follows
11	through the end of the subparagraph and in-
12	serting "for which the United States is obli-
13	gated to waive Buy National restrictions
14	under—
15	"(i) the Agreement on the Establish-
16	ment of a Free Trade Area between the
17	Government of the United States of Amer-
18	ica and the Government of Israel, regard-
19	less of the thresholds provided for in the
20	Agreement (as defined in paragraph (1)),
21	or
22	"(ii) any subsequent agreement be-
23	tween the United States and Israel which
24	lowers on a reciprocal basis the applicable

1	threshold for entities covered by the Agree-
2	ment."; and
3	(B) in subparagraph (D) by striking
4	"GATT" the first place it appears and all that
5	follows through the end of the subparagraph
6	and inserting "the Agreement (as defined in
7	paragraph (1)), but for the thresholds provided
8	for in the Agreement.".
9	(g) Conforming Amendments.—Section 401 of the
10	Rural Electrification Act of 1938 (7 U.S.C. 903 note) is
11	amended—
12	(1) by striking ", Mexico, or Canada" each
13	place that it appears and inserting "or in any eligi-
14	ble country"; and
15	(2) by adding at the end the following: "For
16	purposes of this section, an 'eligible country' is any
17	country that applies with respect to the United
18	States an agreement ensuring reciprocal access for
19	United States products and services and United
20	States suppliers to the markets of that country, as
21	determined by the United States Trade Representa-
22	tivo ''

1	SEC. 343. RECIPROCAL COMPETITIVE PROCUREMENT
2	PRACTICES.
3	(a) Applicability.—Section 302(a) of the Trade
4	Agreements Act of 1979 (19 U.S.C. 2512(a)) is amended
5	to read as follows:
6	"(a) Authority to Bar Procurement From
7	Non-Designated Countries.—
8	"(1) IN GENERAL.—Subject to paragraph (2),
9	the President, in order to encourage additional coun-
10	tries to become parties to the Agreement and to pro-
11	vide appropriate reciprocal competitive government
12	procurement opportunities to United States products
13	and suppliers of such products—
14	"(A) shall, with respect to procurement
15	covered by the Agreement, prohibit the procure-
16	ment, after the date on which any waiver under
17	section 301(a) first takes effect, of products—
18	"(i) which are products of a foreign
19	country or instrumentality which is not
20	designated pursuant to section 301(b), and
21	"(ii) which would otherwise be eligible
22	products; and
23	"(B) may, with respect to procurement
24	covered by the Agreement, take such other ac-
25	tions within the President's authority as the
26	President deems necessary.

1	"(2) Exception.—Paragraph (1) shall not
2	apply in the case of procurements for which—
3	"(A) there are no offers of products or
4	services of the United States or of eligible prod-
5	ucts; or
6	"(B) the offers of products or services of
7	the United States or of eligible products are in-
8	sufficient to fulfill the requirements of the Unit-
9	ed States Government.".
10	(b) Additional Waiver Authority.—Section
11	302(b) of the Trade Agreements Act of 1979 (19 U.S.C.
12	2512(b)) is amended—
13	(1) by amending paragraph (1) to read as fol-
14	lows:
15	"(1) waive the prohibition required by sub-
16	section (a)(1) on procurement of products of a for-
17	eign country or instrumentality which has not yet
18	become a party to the Agreement but—
19	"(A) has agreed to apply transparent and
20	competitive procedures to its government pro-
21	curement equivalent to those in the Agreement,
22	and
23	"(B) maintains and enforces effective pro-
24	hibitions on bribery and other corrupt practices

1	in connection with its government procure-
2	ment;"; and
3	(2) by adding after paragraph (3) the following:
4	"Before exercising the waiver authority under paragraph
5	(1), the President shall consult with the appropriate pri-
6	vate sector advisory committees established under section
7	135 of the Trade Act of 1974 and with the appropriate
8	committees of the Congress.".
9	(c) Conforming Amendment.—Section 305(g) of
10	the Trade Agreements Act of 1979 (19 U.S.C. 2515(g))
11	is amended—
12	(1) in paragraph (1)—
13	(A) by striking "(B) or (C)" and inserting
14	"(B), (C), (D), or (E)"; and
15	(B) by striking "their discriminatory pro-
16	curement practices" and inserting "the prac-
17	tices regarding government procurement identi-
18	fied under subparagraph (B)(ii), (C)(ii), (D)(ii),
19	or (E)(ii) (as the case may be)"; and
20	(2) in paragraph (3) by striking "discrimination
21	identified pursuant to subsection $(d)(2)(B)$ or (C) "
22	and inserting "the practices regarding government
23	procurement identified under subparagraph (B)(ii),
24	(C)(ii), (D)(ii), or (E)(ii) (as the case may be)".

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1	SEC. 344. EFFECTIVE DATE.
2	(a) IN GENERAL.—Except as provided in subsection
3	(b), the amendments made by this subtitle take effect or
4	the date on which the Agreement on Government Procure-
5	ment referred to in section $101(d)(17)$ enters into force
6	with respect to the United States.
7	(b) Section 342(g).—The amendments made by sec-
8	tion 342(g) take effect on the date on which the WTC
9	Agreement enters into force with respect to the United
10	States.
11	Subtitle F—Technical Barriers to
12	Trade
13	SEC. 351. TECHNICAL BARRIERS TO TRADE.
14	(a) References.—All references in this section are
	(a) References.—All references in this section are to title IV of the Trade Agreements Act of 1979 (19
15	
15	to title IV of the Trade Agreements Act of 1979 (19
15 16	to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified.
15 16 17	to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified. (b) Section 401.—Section 401 is amended—
15 16 17 18	to title IV of the Trade Agreements Act of 1979 (1900). U.S.C. 2531 et seq.) unless otherwise specified. (b) Section 401.—Section 401 is amended— (1) by striking "Nothing" and inserting "(b)
15 16 17 18 19	to title IV of the Trade Agreements Act of 1979 (1900). U.S.C. 2531 et seq.) unless otherwise specified. (b) Section 401.—Section 401 is amended— (1) by striking "Nothing" and inserting "(b) Unnecessary Obstacles.—Nothing"; and
15 16 17 18 19 20	to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified. (b) Section 401.—Section 401 is amended— (1) by striking "Nothing" and inserting "(b) UNNECESSARY OBSTACLES.—Nothing"; and (2) by inserting after the section heading the

"(1) to prohibit a Federal agency from engag-

ing in activity related to standards-related measures,

including any such measure relating to safety, the

24

25

1	protection of human, animal, or plant life or health,
2	the environment, or consumers; or
3	"(2) to limit the authority of a Federal agency
4	to determine the level it considers appropriate of
5	safety or of protection of human, animal, or plant
6	life or health, the environment, or consumers.".
7	(c) Section 402.—Section 402(4) is amended—
8	(1) by striking "Certification access" in the
9	paragraph heading and inserting "Access";
10	(2) by striking "certification system" and in-
11	serting "conformity assessment procedure"; and
12	(3) by striking "certification under that sys-
13	tem" and inserting "an assessment of conformity
14	and the mark of the system, if any".
15	(d) Section 414.—Section 414(b)(1) is amended—
16	(1) by inserting "(A)" after "relating to";
17	(2) by striking "certification systems" and in-
18	serting "technical regulations, conformity assess-
19	ment procedures,";
20	(3) by striking "such standards, systems" and
21	inserting "such standards, technical regulations,
22	conformity assessment procedures,"; and
23	(4) after "local" by inserting "and (B) the
24	membership and participation of Federal, State, or
25	local government bodies or private bodies in the

1	United States in international and regional stand-
2	ardizing bodies and conformity assessment systems,
3	as well as in bilateral and multilateral arrangements
4	concerning standards-related activities".
5	(e) Definitions.—Section 451 is amended—
6	(1) so that paragraph (1) reads as follows:
7	"(1) AGREEMENT.—The term 'Agreement'
8	means the Agreement on Technical Barriers to
9	Trade referred to in section 101(d)(5) of the Uru-
10	guay Round Agreements Act.";
11	(2) so that paragraph (2) reads as follows:
12	"(2) Conformity assessment procedure.—
13	The term 'conformity assessment procedure' means
14	any procedure used, directly or indirectly, to deter-
15	mine that relevant requirements in technical regula-
16	tions or standards are fulfilled.";
17	(3) in paragraph (4), by striking "certification
18	system" and inserting "conformity assessment pro-
19	cedure" each place it occurs;
20	(4) so that paragraph (6)(A) reads as follows:
21	"(A) the membership of which is open to
22	representatives, whether public or private, of
23	the United States and at least all Members.":

1	(5) in paragraph (7), by striking "certification
2	system" and inserting "conformity assessment pro-
3	cedure'';
4	(6) so that paragraph (8) reads as follows:
5	"(8) Member.—The term 'Member' means a
6	WTO member as defined in section 2(10) of the
7	Uruguay Round Agreements Act.";
8	(7) so that paragraph (13) reads as follows:
9	"(13) Standard.—The term 'standard' means
10	a document approved by a recognized body, that
11	provides, for common and repeated use, rules, guide-
12	lines, or characteristics for products or related proc-
13	esses and production methods, with which compli-
14	ance is not mandatory. Such term may also include
15	or deal exclusively with terminology, symbols, pack-
16	aging, marking, or labeling requirements as they
17	apply to a product, process, or production method.";
18	(8) in paragraph (14), by striking "or any cer-
19	tification system" and inserting ", technical regula-
20	tion, or conformity assessment procedure"; and
21	(9) by redesignating paragraph (17) as para-
22	graph (18) and inserting after paragraph (16) the
23	following:
24	"(17) TECHNICAL REGULATION.—The term
25	'technical regulation' means a document which lays

1	down product characteristics or their related proc-
2	esses and production methods, including the applica-
3	ble administrative provisions, with which compliance
4	is mandatory. Such term may also include or deal
5	exclusively with terminology, symbols, packaging,
6	marking, or labeling requirements as they apply to
7	a product, process, or production method.".
8	(f) REPORTS TO CONGRESS.—Section 453 is amend-
9	ed by inserting "through 2001" after "succeeding 3-year
10	period".
11	(g) Effective Date.—Title IV of the Trade Agree-
12	ments Act of 1979 (19 U.S.C. 2531 et seq.) is amended
13	by striking section 454.
14	SEC. 352. EFFECTIVE DATE.
15	This subtitle and the amendments made by this sub-
16	title take effect on the date on which the WTO Agreement
17	enters into force with respect to the United States.
18	TITLE IV—AGRICULTURE-
19	RELATED PROVISIONS
20	Subtitle A—Agriculture
21	PART I—MARKET ACCESS
22	SEC. 401. SECTION 22 AMENDMENTS.
23	(a) Amendment to Section 22.—
24	(1) Generally.—Subsection (f) of section 22
25	of the Agricultural Adjustment Act (7 U.S.C.

1	624(f)), reenacted with amendments by the Agricul-
2	tural Marketing Agreement Act of 1937, is amended
3	to read as follows:
4	"(f) No quantitative limitation or fee shall be imposed
5	under this section with respect to any article that is the
6	product of a WTO member (as defined in section 2(10)
7	of the Uruguay Round Agreements Act).".
8	(2) EFFECTIVE DATE.—The amendment made
9	by paragraph (1) shall take effect on the date of
10	entry into force of the WTO Agreement with respect
11	to the United States, except that with respect to
12	wheat, that amendment shall take effect on the later
13	of such date or September 12, 1995.
14	(b) Conforming Amendments.—
15	(1) Section 202 of the agricultural act
16	OF 1956.—Section 202 of the Agricultural Act of
17	1956 (7 U.S.C. 1852) is amended—
18	(A) by striking subsection (a); and
19	(B) in subsection (b), by striking "(b)".
20	(2) COTTON IMPORT QUOTAS.—Section 103B of
21	the Agricultural Act of 1949 (7 U.S.C. 1444–2) is
22	amended—
23	(A) in subsection $(a)(5)(F)(i)$ —

1	(i) by striking "this section" and in-
2	serting "the Uruguay Round Agreements
3	Act''; and
4	(ii) by striking "limited global";
5	(B) in subsection $(a)(5)(F)(iv)$, by striking
6	"special quota period has" and inserting "quota
7	period has";
8	(C) by adding at the end of subsection
9	(a)(5)(F) the following:
10	"(v) Preferential tariff treat-
11	MENT.—The quantity under a special im-
12	port quota shall be considered to be an in-
13	quota quantity for purposes of section
14	213(d) of the Caribbean Basin Economic
15	Recovery Act (19 U.S.C. 2703(d)), section
16	204 of the Andean Trade Preference Act
17	(19 U.S.C. 3203), section 503(d) of the
18	Trade Act of 1974 (19 U.S.C. 2463(d)),
19	and General Note 3(a)(iv) to the HTS.
20	"(vi) Definition.—As used in this
21	subparagraph, the term 'special import
22	quota' means a quantity of imports that is
23	not subject to the over-quota tariff rate of
24	a tariff-rate quota."; and
25	(D) in subsection (n)—

1	(i) in the subsection heading, by strik-
2	ing "Special";
3	(ii) in paragraph (1), by striking "this
4	section'' and inserting "the Uruguay
5	Round Agreements Act";
6	(iii) in paragraph (1), by striking
7	"special" each place it appears;
8	(iv) by redesignating paragraph
9	(1)(C) as paragraph (1)(D);
10	(v) by inserting after subparagraph
11	(B) of paragraph (1) the following:
12	"(C) Preferential tariff treat-
13	MENT.—The quantity under a limited global
14	import quota shall be considered to be an in-
15	quota quantity for purposes of section 213(d) of
16	the Caribbean Basin Economic Recovery Act
17	(19 U.S.C. 2703(d)), section 204 of the Andean
18	Trade Preference Act (19 U.S.C. 3203), section
19	503(d) of the Trade Act of 1974 (19 U.S.C.
20	2463(d)), and General Note 3(a)(iv) to the
21	HTS."; and
22	(vi) in paragraph (1)(D) (as redesig-
23	nated by clause (iv)), by adding at the end
24	the following:

1	"(iii) Limited global import
2	QUOTA.—As used in this subsection, the
3	term 'limited global import quota' means a
4	quantity of imports that is not subject to
5	the over-quota tariff rate of a tariff-rate
6	quota.''; and
7	(vii) in paragraph (2), by striking
8	"special quota period may" and inserting
9	"quota period may".
10	SEC. 402. CHEESE AND CHOCOLATE CRUMB IMPORTS.
11	(a) Repeal of Sections 701 and 703.—Sections
12	701 and 703 of the Trade Agreements Act of 1979 (93
13	Stat. 268) are hereby repealed.
14	(b) Presidential Action.—Section 702(d)(1) (93
15	Stat. 268) of the Trade Agreements Act of 1979 is amend-
16	ed to read as follows:
17	"(1) IN GENERAL.—Not later than 7 days after
18	receiving a report under subsection (c)(3) with re-
19	spect to an article of cheese subject to an in-quota
20	rate of duty (or not later than 3 days after receiving
21	a report under paragraph (2) in any case in which
22	such paragraph applies), the President shall pro-
23	claim the imposition of a fee on the importation of
24	such article from the country involved in such
25	amount (not to exceed the amount of the subsidy de-

1	termined under subsection (b)(2)(B)) as may be nec-
2	essary to ensure that the duty-paid wholesale price
3	of such article will not be less than the domestic
4	wholesale market price of similar articles produced
5	in the United States, and shall direct the Commis-
6	sioner of Customs to administer and enforce such
7	fee. Any such fee imposed shall be in addition to any
8	customs duty or other fee imposed by law.".
9	(c) Technical and Conforming Amendments.—
10	(1) Section 702 of the Trade Agreements Act
11	of 1979 is amended by striking "of quota cheese"
12	each place it appears and inserting "of cheese sub-
13	ject to an in-quota rate of duty".
14	(2) Section 702(c)(2) of such Act is amended—
15	(A) by striking "the Special Representative
16	for Trade Negotiations" and inserting "the
17	United States Trade Representative", and
18	(B) by striking "The Special Representa-
19	tive" and inserting "The United States Trade
20	Representative".
21	(3) Subsections (c)(3)(B) and (e) of section 702
22	of such Act are each amended by striking "or quan-
23	titative limitation".
24	(4) Section 702(f) of such Act is amended—

1	(A) by inserting "(as in effect on the day
2	before the effective date of title II of the Uru-
3	guay Round Agreements Act)'' after "Tarif
4	Act of 1930", and
5	(B) by striking "under title I of this Act"
6	and inserting "under title VII of the Tariff Act
7	of 1930''.
8	(5) Section 702(g)(2) of such Act is amended
9	by striking "or quantitative limitations".
10	(6) Section 702(h) of such Act is amended by
11	adding at the end the following new paragraphs:
12	"(4) Cheese subject to an in-quota rate
13	OF DUTY.—The term 'cheese subject to an in-quota
14	rate of duty' means the articles and the quantities
15	of such articles provided for in the Additional U. S
16	Notes 14 through 23 of chapter 4 of Schedule XX
17	(as defined in section 2(5) of the Uruguay Round
18	Agreements Act).
19	"(5) Secretary.—The term 'Secretary' means
20	the Secretary of Agriculture.".
21	SEC. 403. MEAT IMPORT ACT.
22	The Meat Import Act of 1979 (19 U.S.C. 2253 note)
23	is repealed.

1 SEC. 404. ADMINISTRATION OF TARIFF-RATE QUOTAS.

- 2 (a) Orderly Marketing.—In implementing the
- 3 tariff-rate quotas set out in Schedule XX for the entry,
- 4 or withdrawal from warehouse, for consumption of goods
- 5 in the United States, the President shall take such action
- 6 as may be necessary to ensure that imports of agricultural
- 7 products do not disrupt the orderly marketing of commod-
- 8 ities in the United States.
- 9 (b) INADEQUATE SUPPLY.—Where imports of an ag-
- 10 ricultural product are subject to a tariff-rate quota, and
- 11 where the President determines and proclaims that the
- 12 supply of the same or directly competitive or substitutable
- 13 agricultural product will be inadequate, because of a natu-
- 14 ral disaster, disease, or major national market disruption,
- 15 to meet domestic demand at reasonable prices, the Presi-
- 16 dent may temporarily increase the quantity of imports of
- 17 the agricultural product that is subject to the in-quota
- 18 rate of duty established under the tariff-rate quota.
- 19 (c) MONITORING.—The Secretary of Agriculture shall
- 20 monitor the domestic supply of agricultural products sub-
- 21 ject to a tariff-rate quota as the Secretary considers ap-
- 22 propriate and shall advise the President when the domestic
- 23 supply of the products and substitutable products com-
- 24 bined with the estimated imports of the products under
- 25 the tariff-rate quota may be inadequate to meet domestic
- 26 demand at reasonable prices.

1	(d) COVERAGE OF TARIFF-RATE QUOTAS.—
2	(1) Exclusions.—The President may, subject
3	to terms and conditions determined appropriate by
4	the President, provide that the entry, or withdrawal
5	from warehouse, for consumption in the United
6	States of an agricultural product shall not be subject
7	to the over-quota rate of duty established under a
8	tariff-rate quota if the agricultural product—
9	(A) is imported by, or for the account of,
10	any agency of the United States or of any for-
11	eign embassy;
12	(B) is imported as a sample for taking or-
13	ders, for the personal use of the importer, or
14	for the testing of equipment;
15	(C) is a commercial sample or is entered
16	for exhibition, display, or sampling at a trade
17	fair or for research; or
18	(D) is a blended syrup provided for in sub-
19	headings 1702.20.28, 1702.30.28, 1702.40.28,
20	1702.60.28, 1702.90.58, 1806.20.92,
21	1806.20.93, 1806.90.38, 1806.90.40,
22	2101.10.38, 2101.20.38, 2106.90.38, or
23	2106.90.67 of Schedule XX, if entered from a
24	foreign trade zone by a foreign trade zone user
25	whose facilities were in operation on June 1,

1 1990, to the extent that the annual quantity 2 entered into the customs territory from such 3 zone does not contain a quantity of sugar of 4 nondomestic origin greater than the quantity 5 authorized by the Foreign Trade Zones Board 6 for processing in that zone during calendar year 7 1985.

- (2) Reclassification.—Subject to the consultation and layover requirements of section 115, the President may proclaim a modification to the coverage of a tariff-rate quota for any agricultural product if the President determines the modification is necessary or appropriate to conform the tariff-rate quota to Schedule XX as a result of a reclassification of any item by the Secretary of the Treasury.
- (3) ALLOCATION.—The President may allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas and may modify any allocation as determined appropriate by the President.
- (4) BILATERAL AGREEMENT.—The President may proclaim an increase in the tariff-rate quota for beef if the President determines that an increase is necessary to implement—

1	(A) the March 24, 1994, agreement be-
2	tween the United States and Argentina; or
3	(B) the March 9, 1994, agreement between
4	the United States and Uruguay.
5	(5) Continuation of sugar headnote.—
6	The President is authorized to proclaim additional
7	United States note 3 to chapter 17 of the HTS, and
8	to proclaim the modifications to the note, as deter-
9	mined appropriate by the President to reflect Sched-
10	ule XX.
11	(e) Conforming Amendments.—
12	(1) Section 213 of the caribbean basin
13	ECONOMIC RECOVERY ACT.—Section 213(d) of the
14	Caribbean Basin Economic Recovery Act (19 U.S.C.
15	2703(d)) is amended to read as follows:
16	"(d) Tariff-Rate Quotas.—No quantity of an ag-
17	ricultural product subject to a tariff-rate quota that ex-
18	ceeds the in-quota quantity shall be eligible for duty-free
19	treatment under this title.".
20	(2) Section 204 of the andean trade pref-
21	ERENCE ACT.—Section 204 of the Andean Trade
22	Preference Act (19 U.S.C. 3203) is amended by
23	adding at the end the following new subsection:
24	"(g) Tariff-Rate Quotas.—No quantity of an ag-
25	ricultural product subject to a tariff-rate quota that ex-

1	ceeds the in-quota quantity shall be eligible for duty-free
2	treatment under this Act.".
3	(3) GSP.—Section 503 of the Trade Act of
4	1974 (19 U.S.C. 2463) is amended by adding at the
5	end the following new subsection:
6	"(d) Tariff-Rate Quotas.—No quantity of an ag-
7	ricultural product subject to a tariff-rate quota that ex-
8	ceeds the in-quota quantity shall be eligible for duty-free
9	treatment under this title.".
10	(4) General Note 3(a) to the HTS.—Gen-
11	eral Note 3(a)(iv) to the HTS is amended by adding
12	at the end the following:
13	"(F) No quantity of an agricultural prod-
14	uct that is subject to a tariff-rate quota that ex-
15	ceeds the in-quota quantity shall be eligible for
16	duty-free treatment under this paragraph.".
17	(5) Duty drawback.—
18	(A) GENERALLY.—Section 313 of the Tar-
19	iff Act of 1930 (19 U.S.C. 1313) is amended by
20	adding at the end the following new subsection:
21	"(w) Limited Applicability for Certain Agri-
22	CULTURAL PRODUCTS.—No drawback shall be available
23	with respect to an agricultural product subject to the over-
24	quota rate of duty established under a tariff-rate quota,
25	except pursuant to subsection (j)(1).".

1	(B) EFFECTIVE DATE.—The amendment
2	made by subparagraph (A) shall take effect or
3	the earlier of the date of entry into force of the
4	WTO Agreement with respect to the United
5	States or January 1, 1995.
6	(6) Restrictions on imported peanuts.—
7	Paragraph (6) of section 358e(f) of the Agricultura
8	Adjustment Act of 1938 (7 U.S.C. 1359a(f)(6)) is
9	amended by inserting after "issues a proclamation"
10	the following: "under section 404(b) of the Uruguay
11	Round Agreements Act expanding the quantity of
12	peanuts subject to the in-quota rate of duty under
13	a tariff-rate quota, or".
14	SEC. 405. SPECIAL AGRICULTURAL SAFEGUARD AUTHOR
15	ITY.
16	(a) DETERMINATION OF TRIGGER LEVELS.—Con-
17	sistent with Article 5 as determined by the President, the
18	President shall cause to be published in the Federal Reg-
19	ister—
20	(1) the list of special safeguard agricultura
21	goods not later than the date of entry into force of
22	the WTO Agreement with respect to the United
23	States; and
24	(2) for each special safeguard agricultura
25	good—

1	(A) the trigger level specified in subpara-
2	graph 1(a) of Article 5, on an annual basis;
3	(B) the trigger price specified in subpara-
4	graph 1(b) of Article 5; and
5	(C) the relevant period.
6	(b) Determination of Safeguard.—If the Presi-
7	dent determines with respect to a special safeguard agri-
8	cultural good that it is appropriate to impose—
9	(1) the price-based safeguard in accordance
10	with subparagraph 1(a) of Article 5; or
11	(2) the volume-based safeguard in accordance
12	with subparagraph 1(b) of Article 5,
13	the President shall, consistent with Article 5 as deter-
14	mined by the President, determine the amount of the duty
15	to be imposed, the period such duty shall be in effect, and
16	any other terms and conditions applicable to the duty.
17	(c) Imposition of Safeguard.—The President
18	shall direct the Secretary of the Treasury to impose a duty
19	on a special safeguard agricultural good entered, or with-
20	drawn from warehouse, for consumption in the United
21	States in accordance with a determination made under
22	subsection (b).
23	(d) No Simultaneous Safeguard.—A duty may
24	not be in effect for a special safeguard agricultural good
25	pursuant to this section during any period in which such

- 1 good is the subject of any action proclaimed pursuant to
- 2 section 202 or 203 of the Trade Act of 1974 (19 U.S.C.
- 3 2252 or 2253).
- 4 (e) Exclusion of NAFTA Countries.—The Presi-
- 5 dent may exempt from any duty imposed under this sec-
- 6 tion any good originating in a NAFTA country (as deter-
- 7 mined in accordance with section 202 of the North Amer-
- 8 ican Free Trade Agreement Implementation Act (19
- 9 U.S.C. 3332)).
- 10 (f) Advice of Secretary of Agriculture.—The
- 11 Secretary of Agriculture shall advise the President on the
- 12 implementation of this section.
- 13 (g) TERMINATION DATE.—This section shall cease to
- 14 be effective on the date, as determined by the President,
- 15 that the special safeguard provisions of Article 5 are no
- 16 longer in force with respect to the United States.
- 17 (h) DEFINITIONS.—For purposes of this section—
- 18 (1) the term "Article 5" means Article 5 of the
- 19 Agreement on Agriculture described in section
- 20 101(d)(2);
- 21 (2) the term "relevant period" means the pe-
- riod determined by the President to be applicable to
- a special safeguard agricultural good for purposes of
- 24 applying this section; and

1	(3) the term "special safeguard agricultural
2	good" means an agricultural good on which an addi-
3	tional duty may be imposed pursuant to the special
4	safeguard provisions of Article 5.
5	PART II—EXPORTS
6	SEC. 411. EXPORT PROGRAMS.
7	(a) Export Enhancement Program.—
8	(1) Short title.—This subsection may be
9	cited as the "Export Enhancement Program Amend-
10	ments of 1994".
11	(2) TITLE HEADING.—Title III of the Agricul-
12	tural Trade Act of 1978 (7 U.S.C. 5651 et seq.) is
13	amended by striking the title heading and inserting
14	the following:
15	"TITLE III—EXPORT
16	ENHANCEMENT PROGRAM".
17	(3) General authority.—Subsection (a) of
18	section 301 of such Act (7 U.S.C. 5651(a)) is
19	amended to read as follows:
20	"(a) In General.—The Commodity Credit Corpora-
21	tion shall carry out an export enhancement program in
22	accordance with this section to encourage the commercial
23	sale of United States agricultural commodities in world
24	markets at competitive prices. The program shall be car-
25	ried out in a market sensitive manner Activities under

- 1 the program shall not be limited to responses to unfair
- 2 trade practices.".
- 3 (4) Funding.—Section 301 of such Act (7)
- 4 U.S.C. 5651) is amended—
- 5 (A) in subsection (e), by striking "1995"
- 6 and inserting "2001"; and
- 7 (B) by adding at the end the following:
- 8 "(g) Consistency With International Obliga-
- 9 TIONS.—Notwithstanding any other provision of this sec-
- 10 tion, the Commodity Credit Corporation shall administer
- 11 and carry out the program authorized by this section in
- 12 a manner consistent, as determined by the President, with
- 13 the obligations undertaken by the United States set forth
- 14 in the Uruguay Round Agreements.".
- 15 (b) Dairy Export Incentive Program.—Section
- 16 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-
- 17 14) is amended by striking "1995" and inserting "2001".
- 18 (c) Export Sales of Dairy Products.—Sub-
- 19 section (a) of section 1163 of the Food Security Act of
- 20 1985 (Public Law 99-198; 7 U.S.C. 1731 note) is amend-
- 21 ed to read as follows:
- 22 "(a) In each fiscal year, the Secretary of Agriculture
- 23 may sell dairy products for export, at such prices as the
- 24 Secretary determines appropriate, in a quantity and allo-
- 25 cated as determined by the Secretary, consistent with the

- 1 obligations undertaken by the United States set forth in
- 2 the Uruguay Round Agreements, if the disposition of the
- 3 commodities will not interfere with the usual marketings
- 4 of the United States nor disrupt world prices of agricul-
- 5 tural commodities and patterns of commercial trade.".
- 6 (d) Market Promotion Program.—(1) Section
- 7 203(c) of the Agricultural Trade Act of 1978 (7 U.S.C.
- 8 5623(c)) is amended—
- 9 (A) by striking paragraph (2);
- 10 (B) by striking "Participation.—" and all
- that follows through "To" in paragraph (1) and in-
- serting "Participation.—To";
- (C) by redesignating subparagraphs (A), (B),
- and (C) as paragraphs (1), (2), and (3), respectively;
- 15 and
- (D) by aligning the margins of paragraphs (1),
- 17 (2), and (3) (as so redesignated) so as to align with
- the margin of paragraph (1) of subsection (d).
- 19 (2) Section 203(f)(2) of such Act (7 U.S.C.
- 20 5623(f)(2)) is amended—
- 21 (A) by striking subparagraph (D);
- 22 (B) by inserting "or" at the end of subpara-
- 23 graph (C); and
- (C) by redesignating subparagraph (E) as sub-
- paragraph (D).

1	(e) FOOD AID.—
2	(1) Policy.—In light of the Uruguay Round
3	Agreement on Agriculture and the Ministerial Deci-
4	sion on Measures Concerning the Possible Negative
5	Effects of the Reform Program on Least-Developed
6	and Net-Food Importing Developing Countries, the
7	United States reaffirms the commitment of the
8	United States to providing food aid to developing
9	countries.
10	(2) Sense of Congress.—It is the sense of
11	Congress that—
12	(A) the President should initiate consulta-
13	tions with other donor nations to consider ap-
14	propriate levels of food aid commitments to
15	meet the legitimate needs of developing coun-
16	tries; and
17	(B) the United States should increase its
18	contribution of bona fide food assistance to de-
19	veloping countries consistent with the Agree-
20	ment on Agriculture.
21	SEC. 412. OTHER CONFORMING AMENDMENTS.
22	(a) Public Law 98–332.—Section 106 of Public
23	Law 98–332 (98 Stat. 287), is repealed.
24	(b) AGRICULTURE, RURAL DEVELOPMENT, AND RE-
25	LATED AGENCIES APPROPRIATIONS ACT, 1984.—Section

- 1 625(A) of the Agriculture, Rural Development, and Relat-
- 2 ed Agencies Appropriations Act, 1984, as given the force
- 3 of law by section 101(d) of Public Law 98–151 (97 Stat.
- 4 1853), is repealed.
- 5 (c) AGRICULTURAL ACT OF 1956.—Section 203 of the
- 6 Agriculture Act of 1956 (7 U.S.C. 1853) is repealed.

7 PART III—OTHER PROVISIONS

- 8 SEC. 421. AUTHORITY FOR CERTAIN ACTIONS UNDER ARTI-
- 9 **CLE XXVIII.**
- 10 (a) In General.—In the application of section
- 11 125(c) of the Trade Act of 1974 (19 U.S.C. 2135) with
- 12 respect to any item provided for in subheadings
- 13 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30,
- 14 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or
- 15 2403.99.00 of the HTS, "350" shall be substituted for
- 16 "20" where it appears in such section.
- 17 (b) Effective Date.—This section shall take effect
- 18 on the date of the enactment of this Act.
- 19 SEC. 422. TOBACCO IMPORTS.
- 20 (a) Domestic Marketing Assessment.—Section
- 21 320C of the Agricultural Adjustment Act of 1938 (7
- 22 U.S.C. 1314i) is amended by adding at the end the follow-
- 23 ing new subsection:
- 24 "(g) Effective Date.—This section shall be effec-
- 25 tive only for calendar year 1994.".

1	(b) BUDGET DEFICIT ASSESSMENT.—
2	(1) Importer assessments.—Section 106(g)
3	of the Agricultural Act of 1949 (7 U.S.C. 1445(g))
4	is amended—
5	(A) by striking paragraph (1) and insert-
6	ing the following new paragraph:
7	"(1) Effective only for each of the 1994
8	through 1998 crops of tobacco for which price sup-
9	port is made available under this Act, each producer
10	and purchaser of such tobacco, and each importer of
11	the same kind of tobacco, shall remit to the Com-
12	modity Credit Corporation a nonrefundable market-
13	ing assessment in an amount equal to—
14	"(A) in the case of a producer or pur-
15	chaser of domestic tobacco, .5 percent of the
16	national price support level for each such crop;
17	and
18	"(B) in the case of an importer of tobacco,
19	1 percent of the national support price for the
20	same kind of tobacco;
21	as provided for in this section."; and
22	(B) in paragraph (2), by striking "assess-
23	ments and purchaser" and inserting ", pur-
24	chaser, and importer".

1	(2) Conforming Amendment.—Section 106
2	of such Act (7 U.S.C. 1445) is amended by striking
3	subsection (h).
4	(c) Waiver Authority.—The President may waive
5	the application to imported tobacco of section 106(g),
6	106A, or 106B of the Agricultural Act of 1949 (7 U.S.C.
7	1445(g), 1445–1, or 1445–2) or the amendment made in
8	subsection (c) of section 1106 of the Omnibus Budget
9	Reconciliation Act of 1993 (Public Law 103-66; 107 Stat.
10	323) if the President determines that the waiver is nec-
11	essary or appropriate pursuant to an international agree-
12	ment entered into by the United States.
13	(d) Duty Drawback.—Section 313(w) of the Tariff
14	Act of 1930 (19 U.S.C. 1313) (as added by section
15	404(d)(5)) is further amended—
16	(1) by striking "PRODUCTS.—No" and insert-
17	ing "Products.—
18	"(1) IN GENERAL.—No"; and
19	(2) by adding at the end the following new
20	paragraph:
21	"(2) Application to tobacco.—Notwith-
22	standing paragraph (1), drawback shall also be
23	available pursuant to subsection (a) with respect to
24	any tobacco subject to the over-quota rate of duty
25	established under a tariff-rate quota.".

- 1 (e) Effective Date.—This section and the amend-
- 2 ments made by this section shall be effective beginning
- 3 on the effective date of the Presidential proclamation, au-
- 4 thorized under section 421, establishing a tariff-rate quota
- 5 pursuant to Article XXVIII of the GATT 1947 or the
- 6 GATT 1994 with respect to tobacco.

7 SEC. 423. TOBACCO PROCLAMATION AUTHORITY.

- 8 (a) IN GENERAL.—The President, after consultation
- 9 with the Committee on Ways and Means of the House of
- 10 Representatives and with the Committee on Finance of the
- 11 Senate, may proclaim the reduction or elimination of any
- 12 duty with respect to cigar binder and filler tobacco, wrap-
- 13 per tobacco, or oriental tobacco set forth in Schedule XX.
- 14 (b) Effective Date.—This section shall take effect
- 15 on the date of the enactment of this Act.

16 SEC. 424. REPORT TO CONGRESS ON ACCESS TO CANADIAN

17 DAIRY AND POULTRY MARKETS.

- The President, not later than 6 months after the date
- 19 of entry into force of the WTO Agreement with respect
- 20 to the United States, shall submit a report to the Congress
- 21 on the extent to which Canada is complying with its obli-
- 22 gations under the Uruguay Round Agreements with re-
- 23 spect to dairy and poultry products and with its related
- 24 obligations under the North American Free Trade Agree-
- 25 ment.

1 SEC. 425. STUDY OF MILK MARKETING ORDER SYSTEM.

- 2 The Secretary of Agriculture shall conduct a study
- 3 to determine the effects of the Uruguay Round Agree-
- 4 ments on the Federal milk marketing order system. Not
- 5 later than 6 months after the date of entry into force of
- 6 the WTO Agreement with respect to the United States,
- 7 the Secretary of Agriculture shall report to the Congress
- 8 on the results of the study.

9 SEC. 426. ADDITIONAL PROGRAM FUNDING.

- 10 (a) USE OF ADDITIONAL FUNDS.—Consistent, as de-
- 11 termined by the President, with the obligations under-
- 12 taken by the United States set forth in the Uruguay
- 13 Round Agreements, the Commodity Credit Corporation
- 14 shall use, in addition to any other funds appropriated or
- 15 made available for such purposes, any funds made avail-
- 16 able under subsection (b) for authorized export promotion,
- 17 foreign market development, export credit financing, and
- 18 promoting the development, commercialization, and mar-
- 19 keting of products resulting from alternative uses of agri-
- 20 cultural commodities.
- 21 (b) Amount of Additional Funds.—Amounts
- 22 shall be credited to the Commodity Credit Corporation in
- 23 fiscal year 1995 equal to the lesser of the dollar amount
- 24 of—
- 25 (1) the fiscal year 1995 Pay-As-You-Go sav-
- ings; and

1	(2) the 5-year Pay-As-You-Go savings;
2	under section 252 of the Balanced Budget and Emergency
3	Deficit Control Act of 1985, resulting from the enactment
4	of the Federal Crop Insurance Reform Act of 1994.
5	(c) Effective Date.—This section shall take effect
6	on the date of the enactment of this section.
7	Subtitle B—Sanitary and
8	Phytosanitary Measures
9	SEC. 431. SANITARY AND PHYTOSANITARY MEASURES.
10	(a) Trade Agreements Act of 1979.—Section
11	414 of the Trade Agreements Act of 1979 (19 U.S.C.
12	2544) is amended by adding at the end the following:
13	"(c) Sanitary and Phytosanitary Measures.—
14	"(1) Public information.—The standards in-
15	formation center shall, in addition to the functions
16	specified under subsection (b), make available to the
17	public relevant documents, at such reasonable fees
18	as the Secretary of Commerce may prescribe, and
19	information regarding—
20	"(A) any sanitary or phytosanitary meas-
21	ure of general application, including any inspec-
22	tion procedure or approval procedure proposed,
23	adopted, or maintained by a Federal agency or
24	agency of a State or local government;

1	"(B) the procedures of a Federal agency or
2	an agency of a State or local government for
3	risk assessment and factors the agency consid-
4	ers in conducting the assessment;
5	"(C) the determination of the levels of pro-
6	tection that a Federal agency or an agency of
7	a State or local government considers appro-
8	priate; and
9	"(D) the membership and participation of
10	the Federal Government and State and local
11	governments in international and regional sani-
12	tary and phytosanitary organizations and sys-
13	tems, and in bilateral and multilateral arrange-
14	ments regarding sanitary and phytosanitary
15	measures, and the provisions of those systems
16	and arrangements.
17	"(2) Definitions.—The definitions in section
18	463 apply for purposes of this subsection.".
19	(b) RAILWAY CAR INSPECTION.—Subsection (a) of
20	the Act of January 31, 1942 (56 Stat. 40, chapter 31;
21	7 U.S.C. 149), is amended by striking "from Mexico".
22	(c) Federal Plant Pest Act.—The Federal Plant
23	Pest Act (7 U.S.C. 150aa et seq.) is amended—
24	(1) so that section 103 (7 U.S.C. 150bb) reads
25	as follows:

"SEC. 103. MOVEMENT OF PESTS PROHIBITED.

2	"(a)	ΙN	GENERAL	–No	person	shall	import	or	enter
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- 3 any plant pest into the United States, or move any plant
- 4 pest interstate, or accept delivery of any plant pest moving
- 5 from any foreign country into or through the United
- 6 States, or interstate, unless the movement is made in ac-
- 7 cordance with such regulations as the Secretary may pro-
- 8 mulgate to prevent the dissemination into the United
- 9 States, or interstate, of plant pests.
- 10 "(b) Regulations.—The regulations promulgated
- 11 by the Secretary to implement subsection (a) may include
- 12 regulations requiring that a plant pest moving into or
- 13 through the United States, or interstate—
- 14 "(1) be accompanied by a permit issued by the
- 15 Secretary prior to the movement of the plant pest;
- 16 or
- 17 "(2) be accompanied by a certificate of inspec-
- tion issued, in a manner and form required by the
- 19 Secretary, by appropriate officials of the country or
- State from which the plant pest is to be moved.";
- 21 and
- 22 (2) in section 104 (7 U.S.C. 150cc)—
- 23 (A) so that subsection (a) reads as follows:
- "(a) Any letter, parcel, box, or other package contain-
- 25 ing any plant pest, whether sealed as letter-rate postal
- 26 matter or not, is nonmailable, and shall not knowingly be

- 1 conveyed in the mail or delivered from any post office or
- 2 by any mail carrier, unless it is mailed in conformance
- 3 with such regulations as the Secretary may promulgate
- 4 to prevent the dissemination into the United States, or
- 5 interstate, of plant pests.";
- 6 (B) by striking subsection (b); and
- 7 (C) by redesignating subsections (c) and
- 8 (d) as subsections (b) and (c), respectively.
- 9 (d) PLANT QUARANTINE ACT.—The Act of August
- 10 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.)
- 11 (commonly known as the "Plant Quarantine Act") is
- 12 amended—
- 13 (1) so that the first section (7 U.S.C. 151)
- reads as follows:
- 15 "SECTION 1. IMPORTATION OF NURSERY STOCK.
- "(a) IN GENERAL.—No person shall—
- 17 "(1) import or enter into the United States any
- 18 nursery stock; or
- 19 "(2) accept delivery of any nursery stock mov-
- 20 ing from any foreign country into or through the
- 21 United States;
- 22 unless the movement is made in accordance with such reg-
- 23 ulations as the Secretary of Agriculture may promulgate
- 24 to prevent dissemination into the United States of plant
- 25 pests, plant diseases, or insect pests.

1	"(b) Regulations.—The regulations promulgated
2	by the Secretary of Agriculture to implement subsection
3	(a) may include regulations requiring that nursery stock
4	moving into or though the United States—
5	"(1) be accompanied by a permit issued by the
6	Secretary of Agriculture prior to the movement of
7	the nursery stock;
8	"(2) be accompanied by a certificate of inspec-
9	tion issued, in a manner and form required by the
10	Secretary of Agriculture, by appropriate officials of
11	the country or State from which the nursery stock
12	is to be moved;
13	"(3) be grown under postentry quarantine con-
14	ditions by or under the supervision of the Secretary
15	of Agriculture for the purposes of determining
16	whether the nursery stock may be infested with
17	plant pests or insect pests, or infected with plant
18	diseases, not discernible by port-of-entry inspection;
19	and
20	"(4) if the nursery stock is found to be infested
21	with plant pests or insect pests or infected with
22	plant diseases, be subject to remedial measures the
23	Secretary of Agriculture determines to be necessary
24	to prevent the spread of plant pests, insect pests, or
25	plant diseases."; and

- 1 (2) so that the last sentence of section 2 (7
- 2 U.S.C. 156) reads as follows: "This section does not
- apply to nursery stock that is imported or entered
- 4 from a country or a region of a country that the
- 5 Secretary of Agriculture designates, pursuant to pro-
- 6 cedures set forth in such regulations as the Sec-
- 7 retary may promulgate, as exempt from the require-
- 8 ments of this section.".
- 9 (e) Honeybee Importation.—The first section of
- 10 the Act of August 31, 1922 (42 Stat. 833, chapter 301;
- 11 7 U.S.C. 281) (commonly known as the "Honeybee Act"),
- 12 is amended to read as follows:

13 "SECTION 1. HONEYBEE IMPORTATION.

- 14 "(a) IN GENERAL.—The Secretary of Agriculture is
- 15 authorized to prohibit or restrict the importation or entry
- 16 of honeybees and honeybee semen into or through the
- 17 United States in order to prevent the introduction and
- 18 spread of diseases and parasites harmful to honeybees, the
- 19 introduction of genetically undesirable germ plasm of hon-
- 20 eybees, or the introduction and spread of undesirable spe-
- 21 cies or subspecies of honeybees and the semen of honey-
- 22 bees.
- "(b) REGULATIONS.—The Secretary of Agriculture
- 24 and the Secretary of the Treasury are each authorized to

- 1 prescribe such regulations as the respective Secretary de-
- 2 termines necessary to carry out this section.
- 3 "(c) Enforcement.—Honeybees or honeybee semen
- 4 offered for importation into, intercepted entering, or hav-
- 5 ing entered the United States, other than in accordance
- 6 with regulations promulgated by the Secretary of Agri-
- 7 culture and the Secretary of the Treasury, shall be de-
- 8 stroyed or immediately exported.
- 9 "(d) Definition.—As used in this Act, the term
- 10 'honeybee' means all life stages and the germ plasm of
- 11 honeybees of the genus Apis, except honeybee semen.".
- 12 (f) Federal Noxious Weed Act of 1974.—Sec-
- 13 tion 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C.
- 14 2803) is amended so that subsections (a) through (b) read
- 15 as follows:
- 16 "(a) No person shall import or enter any noxious
- 17 weed identified in a regulation promulgated by the Sec-
- 18 retary into or through the United States or move any nox-
- 19 ious weed interstate, unless the movement is in accordance
- 20 with such conditions as the Secretary may prescribe by
- 21 regulation under this Act to prevent the dissemination into
- 22 the United States, or interstate, of such noxious weeds.
- 23 "(b) The regulations prescribed by the Secretary to
- 24 implement subsection (a) may include regulations requir-
- 25 ing that any noxious weed imported or entered into the

- 1 United States or moving interstate be accompanied by a
- 2 permit issued by the Secretary prior to the movement of
- 3 the noxious weed.".
- 4 (g) Tariff Act of 1930.—Section 306(b) of the
- 5 Tariff Act of 1930 (19 U.S.C. 1306(b)) is amended by
- 6 inserting before the period at the end the following: ", or
- 7 is, and is likely to remain, a region of low prevalence of
- 8 rinderpest and foot-and-mouth disease".
- 9 (h) Importation of Animals.—Section 6 of the Act
- 10 of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C.
- 11 104), is amended to read as follows:
- 12 "SEC. 6. IMPORTATION OF ANIMALS.
- 13 "(a) IN GENERAL.—The Secretary of Agriculture
- 14 may by regulation prohibit or restrict the importation or
- 15 entry of any cattle, sheep, or other ruminants, or swine,
- 16 that are diseased or infected with any disease, or that have
- 17 been exposed to an infection, into or through the United
- 18 States to prevent the dissemination into the United States
- 19 of a disease.
- 20 "(b) Penalties.—
- 21 "(1) Criminal.—Any person who knowingly
- violates any regulation promulgated by the Secretary
- pursuant to this section, or any provision of sections
- 7 through 10 or any regulation promulgated by the
- 25 Secretary pursuant to such sections, shall be fined

1	under title 18, United States Code, or imprisoned
2	not more than 1 year, or both.
3	"(2) CIVIL.—Any person who violates any such
4	provision or any such regulation may be assessed a
5	civil penalty by the Secretary of Agriculture not ex-
6	ceeding \$1,000. The Secretary may issue an order
7	assessing the civil penalty only after notice and an
8	opportunity for an agency hearing on the record.
9	The order shall be treated as a final order
10	reviewable under chapter 158 of title 28, United
11	States Code. The validity of the order may not be
12	reviewed in an action to collect such civil penalty.".
13	(i) Inspection of Animals.—Section 10 of the Act
14	of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C.
15	105), is amended—
16	(1) in subsection (a)—
17	(A) by striking "(a) In General.—Except
18	as provided in subsection (b), the" and insert-
19	ing "The";
20	(B) in the first sentence, by striking "shall
21	cause careful inspection to be made by a suit-
22	able officer of all" and inserting "may cause
23	careful inspection of any"; and
24	(C) in the third sentence, by striking "they
25	shall not be allowed to be placed" and inserting

1	"the Secretary may prohibit or restrict their
2	placement''; and
3	(2) by striking subsection (b).
4	(j) International Animal Quarantine Sta-
5	TION.—The 6th sentence in the first section of Public Law
6	91-239 (21 U.S.C. 135) is amended—
7	(1) by striking "North American"; and
8	(2) by striking ''within the United States''.
9	(k) Poultry Products Inspection Act.—Section
10	17(d) of the Poultry Products Inspection Act (21 U.S.C.
11	466) is amended—
12	(1) by amending paragraph (1) to read as fol-
13	lows:
14	"(1) Notwithstanding any other provision of law, all
15	poultry, or parts or products of poultry, capable of use
16	as human food offered for importation into the United
17	States shall—
18	"(A) be subject to inspection, sanitary, quality,
19	species verification, and residue standards that
20	achieve a level of sanitary protection equivalent to
21	that achieved under United States standards; and
22	"(B) have been processed in facilities and under
23	conditions that achieve a level of sanitary protection
24	equivalent to that achieved under United States
25	standards."; and

1	(2) in paragraph (2)—
2	(A) by amending subparagraph (A) to read
3	as follows:
4	"(A) The Secretary may treat as equivalent to a
5	United States standard a standard of an exporting coun-
6	try described in paragraph (1) if the exporting country
7	provides the Secretary with scientific evidence or other in-
8	formation, in accordance with risk assessment methodolo-
9	gies determined appropriate by the Secretary, to dem-
10	onstrate that the standard of the exporting country
11	achieves the level of sanitary protection achieved under the
12	United States standard. For the purposes of this sub-
13	section, the term 'sanitary protection' means protection to
14	safeguard public health.";
15	(B) by striking subparagraph (B); and
16	(C) by redesignating subparagraph (C) as
17	subparagraph (B).
18	(l) Federal Meat Inspection Act.—Section 20(e)
19	of the Federal Meat Inspection Act (21 U.S.C. 620(e))
20	is amended—
21	(1) so that subparagraphs (A) through (B) of
22	paragraph (1) read as follows:
23	"(A) A certification by the Secretary that for-
24	eign plants exporting carcasses or meat or meat
25	products referred to in subsection (a) have complied

- 1 with requirements that achieve a level of sanitary
- 2 protection equivalent to that achieved under United
- 3 States requirements with regard to all inspection,
- 4 building construction standards, and all other provi-
- 5 sions of this Act and regulations issued under this
- 6 Act.
- 7 "(B) The Secretary may treat as equivalent to
- 8 a United States requirement a requirement de-
- 9 scribed in subparagraph (A) if the exporting country
- provides the Secretary with scientific evidence or
- other information, in accordance with risk assess-
- ment methodologies determined appropriate by the
- 13 Secretary, to demonstrate that the requirement
- achieves the level of sanitary protection achieved
- under the United States requirement. For the pur-
- poses of this subsection, the term 'sanitary protec-
- tion' means protection to safeguard public health.";
- 18 (2) by striking paragraph (2); and
- 19 (3) by redesignating paragraphs (3) through
- 20 (7) as paragraphs (2) through (6), respectively.
- 21 SEC. 432. INTERNATIONAL STANDARD-SETTING ACTIVITIES.
- Title IV of the Trade Agreements Act of 1979 (19
- 23 U.S.C. 2531 et seq.) is amended by adding at the end
- 24 the following new subtitle:

1	"Subtitle F—International
2	Standard-Setting Activities
3	"SEC. 491. NOTICE OF UNITED STATES PARTICIPATION IN
4	INTERNATIONAL STANDARD-SETTING ACTIVI-
5	TIES.
6	"(a) In General.—The President shall designate an
7	agency to be responsible for informing the public of the
8	sanitary and phytosanitary standard-setting activities of
9	each international standard-setting organization.
10	"(b) NOTIFICATION.—Not later than June 1 of each
11	year, the agency designated under subsection (a) with re-
12	spect to each international standard-setting organization
13	shall publish notice in the Federal Register of the informa-
14	tion specified in subsection (c) with respect to that organi-
15	zation. The notice shall cover the period ending on June
16	1 of the year in which the notice is published, and begin-
17	ning on the date of the preceding notice under this sub-
18	section, except that the first such notice shall cover the
19	1-year period ending on the date of the notice.
20	"(c) Required Information.—The information to
21	be provided in the notice under subsection (b) is—
22	"(1) the sanitary or phytosanitary standards
23	under consideration or planned for consideration by
24	that organization;

1	"(2) for each sanitary or phytosanitary stand-
2	ard specified in paragraph (1)—
3	"(A) a description of the consideration or
4	planned consideration of the standard;
5	"(B) whether the United States is partici-
6	pating or plans to participate in the consider-
7	ation of the standard;
8	"(C) the agenda for the United States par-
9	ticipation, if any; and
10	"(D) the agency responsible for represent-
11	ing the United States with respect to the stand-
12	ard.
13	"(d) Public Comment.—The agency specified in
14	subsection (c)(2)(D) shall provide an opportunity for pub-
15	lic comment with respect to the standards for which the
16	agency is responsible and shall take the comments into
17	account in participating in the consideration of the stand-
18	ards and in proposing matters to be considered by the or-
19	ganization.
20	"SEC. 492. EQUIVALENCE DETERMINATIONS.
21	"(a) In General.—An agency may not determine
22	that a sanitary or phytosanitary measure of a foreign
23	country is equivalent to a sanitary or phytosanitary meas-
24	ure established under the authority of Federal law unless
25	the agency determines that the sanitary or phytosanitary

- 1 measure of the foreign country provides at least the same
- 2 level of sanitary or phytosanitary protection as the com-
- 3 parable sanitary or phytosanitary measure established
- 4 under the authority of Federal law.
- 5 "(b) FDA DETERMINATION.—If the Commissioner
- 6 proposes to issue a determination of the equivalency of a
- 7 sanitary or phytosanitary measure of a foreign country to
- 8 a measure that is required to be promulgated as a rule
- 9 under the Federal Food, Drug, and Cosmetic Act (21
- 10 U.S.C. 301 et seq.) or other statute administered by the
- 11 Food and Drug Administration, the Commissioner shall
- 12 issue a proposed regulation to incorporate such determina-
- 13 tion and shall include in the notice of proposed rulemaking
- 14 the basis for the determination that the sanitary or
- 15 phytosanitary measure of a foreign country provides at
- 16 least the same level of sanitary or phytosanitary protection
- 17 as the comparable Federal sanitary or phytosanitary
- 18 measure. The Commissioner shall provide opportunity for
- 19 interested persons to comment on the proposed regulation.
- 20 The Commissioner shall not issue a final regulation based
- 21 on the proposal without taking into account the comments
- 22 received.
- 23 "(c) Notice.—If the Commissioner proposes to issue
- 24 a determination of the equivalency of a sanitary or
- 25 phytosanitary measure of a foreign country to a sanitary

1	or phystosanitary measure of the Food and Drug Adminis-
2	tration that is not required to be promulgated as a rule
3	under the Federal Food, Drug, and Cosmetic Act or other
4	statute administered by the Food and Drug Administra-
5	tion, the Commissioner shall publish a notice in the Fed-
6	eral Register that identifies the basis for the determina-
7	tion that the measure provides at least the same level of
8	sanitary or phytosanitary protection as the comparable
9	Federal sanitary or phytosanitary measure. The Commis-
10	sioner shall provide opportunity for interested persons to
11	comment on the notice. The Commissioner shall not issue
12	a final determination on the issue of equivalency without
13	taking into account the comments received.
14	"SEC. 493. DEFINITIONS.
15	"(a) In General.—As used in this subtitle:
16	"(1) Agency.—The term 'agency' means a
17	Federal department or agency (or combination of
18	Federal departments or agencies).
19	"(2) Commissioner.—The term 'Commissioner'
20	sioner' means the Commissioner of Food and Drugs
21	"(3) International standard-setting or-
22	GANIZATION.—The term 'international standard-set-
23	ting organization' means an organization consisting

of representatives of 2 or more countries, the pur-

1	pose of which is to negotiate, develop, promulgate, or
2	amend an international standard.
3	"(4) Sanitary or phytosanitary stand-
4	ARD.—The term 'sanitary or phytosanitary stand-
5	ard' means a standard intended to form a basis for
6	a sanitary or phytosanitary measure.
7	"(5) International standard.—The term
8	'international standard' means a standard, guideline,
9	or recommendation—
10	"(A) regarding food safety, adopted by the
11	Codex Alimentarius Commission, including a
12	standard, guideline, or recommendation regard-
13	ing decomposition elaborated by the Codex
14	Committee on Fish and Fishery Products, food
15	additives, contaminants, hygienic practice, and
16	methods of analysis and sampling;
17	"(B) regarding animal health and
18	zoonoses, developed under the auspices of the
19	International Office of Epizootics;
20	"(C) regarding plant health, developed
21	under the auspices of the Secretariat of the
22	International Plant Protection Convention in
23	cooperation with the North American Plant
24	Protection Organization; or

1	(D) established by or developed under any
2	other international organization agreed to by
3	the NAFTA countries (as defined in section
4	2(4) of the North American Free Trade Agree-
5	ment Implementation Act) or by the WTO
6	members (as defined in section 2(10) of the
7	Uruguay Round Agreements Act).
8	$\hbox{``(b) Other Definitions.} \hbox{$-$The definitions set forth}\\$
9	in section 463 apply for purposes of this subtitle except
10	that in applying paragraph (7) of section 463 with respect
11	to a sanitary or phytosanitary measure of a foreign coun-
12	try, any reference in such paragraph to the United States
13	shall be deemed to be a reference to that foreign coun-
14	try.".
15	Subtitle C—Standards
16	SEC. 441. THE FEDERAL SEED ACT.
17	The Federal Seed Act (7 U.S.C. 1551 et seq.) is
18	•
- 0	amended—
19	•
	amended—
19	amended— (1) in section 301(a) (7 U.S.C. 1581(a))—
19 20	amended— (1) in section 301(a) (7 U.S.C. 1581(a))— (A) by striking "(a)";
19 20 21	amended— (1) in section 301(a) (7 U.S.C. 1581(a))— (A) by striking "(a)"; (B) in paragraph (1), by striking ", or is

1	(D) by redesignating paragraphs (4) and
2	(5) as paragraphs (3) and (4), respectively;
3	(2) in section 302 (7 U.S.C. 1582)—
4	(A) in subsection (a), by striking "stain-
5	ing," both places it appears; and
6	(B) by striking subsection (e);
7	(3) by striking section 303 (7 U.S.C. 1585) and
8	inserting the following new section:
9	"SEC. 303. CERTAIN SEEDS NOT ADAPTED FOR GENERAL
10	AGRICULTURAL USE.
11	"Whenever the Secretary of Agriculture, after a pub-
12	lic hearing, determines that seed of alfalfa or red clover
13	from any foreign country is not adapted for general agri-
14	cultural use in the United States, the Secretary shall pub-
15	lish the determination and the reasons for the determina-
16	tion."; and
17	(4) in section 304 (7 U.S.C. 1586)—
18	(A) in subsection (a)—
19	(i) by inserting "or" at the end of
20	paragraph (2);
21	(ii) by striking the semicolon at the
22	end of paragraph (3) and inserting a pe-
23	riod; and
24	(iii) by striking paragraphs (4)
25	through (7);

1	(B) by striking subsection (b); and
2	(C) by redesignating subsection (c) as sub-
3	section (b).
4	Subtitle D—General Effective Date
5	SEC. 451. GENERAL EFFECTIVE DATE.
6	Except as otherwise provided in this title, this title,
7	and the amendments made by this title, shall take effect
8	on the date of entry into force of the WTO Agreement
9	with respect to the United States.
10	TITLE V—INTELLECTUAL
11	PROPERTY
12	SEC. 501. DEFINITION.
13	For purposes of this title—
14	(1) the term "WTO Agreement" has the mean-
15	ing given that term in section 2(9) of the Uruguay
16	Round Agreements Act; and
17	(2) the term "WTO member country" has the
18	meaning given that term in section 2(10) of the
19	Uruguay Round Agreements Act.
20	Subtitle A—Copyright Provisions
21	SEC. 511. RENTAL RIGHTS IN COMPUTER PROGRAMS.
22	Section 804(c) of the Computer Software Rental
23	Amendments Act of 1990 (17 U.S.C. 109 note; 104 Stat.
24	5136) is amended by striking the first sentence.

1	SEC. 512. CIVIL PENALTIES FOR UNAUTHORIZED FIXATION
2	OF AND TRAFFICKING IN SOUND RECORD-
3	INGS AND MUSIC VIDEOS OF LIVE MUSICAL
4	PERFORMANCES.
5	(a) IN GENERAL.—Title 17, United States Code, is
6	amended by adding at the end the following new chapter:
7	"CHAPTER 11—SOUND RECORDINGS AND MUSIC
8	VIDEOS
	"Sec. "1101. Unauthorized fixation and trafficking in sound recordings and music videos.
9	"§1101. Unauthorized fixation and trafficking in
10	sound recordings and music videos
11	"(a) UNAUTHORIZED ACTS.—Anyone who, without
12	the consent of the performer or performers involved—
13	"(1) fixes the sounds or sounds and images of
14	a live musical performance in a copy or phonorecord,
15	or reproduces copies or phonorecords of such a per-
16	formance from an unauthorized fixation,
17	"(2) transmits or otherwise communicates to
18	the public the sounds or sounds and images of a live
19	musical performance, or
20	"(3) distributes or offers to distribute, sells or
21	offers to sell, rents or offers to rent, or traffics in
22	any copy or phonorecord fixed as described in para-

graph (1), regardless of whether the fixations oc-
curred in the United States,
shall be subject to the remedies provided in sections 502
through 505, to the same extent as an infringer of copy-
right.
$\lq\lq$ (b) Definition.—As used in this section, the term
'traffic in' means transport, transfer, or otherwise dispose
of, to another, as consideration for anything of value, or
make or obtain control of with intent to transport, trans-
fer, or dispose of.
"(c) Applicability.—This section shall apply to any
act or acts that occur on or after the date of the enactment
of the Uruguay Round Agreements Act.
"(d) STATE LAW NOT PREEMPTED.—Nothing in this
section may be construed to annul or limit any rights or
remedies under the common law or statutes of any
State.".
(b) Conforming Amendment.—The table of chap-
ters for title 17, United States Code, is amended by add-
ing at the end the following:
"11. Sound Recordings and Music Videos 1101".

1	SEC. 513. CRIMINAL PENALTIES FOR UNAUTHORIZED FIXA-
2	TION OF AND TRAFFICKING IN SOUND RE-
3	CORDINGS AND MUSIC VIDEOS OR LIVE MU-
4	SICAL PERFORMANCES.
5	(a) IN GENERAL.—Chapter 113 of title 18, United
6	States Code, is amended by inserting after section 2319
7	the following:
8	"§ 2319A. Unauthorized fixation of and trafficking in
9	sound recordings and music videos of
10	live musical performances
11	"(a) Offense.—Whoever, without the consent of the
12	performer or performers involved, knowingly and for pur-
13	poses of commercial advantage or private financial gain—
14	"(1) fixes the sounds or sounds and images of
15	a live musical performance in a copy or phonorecord,
16	or reproduces copies or phonorecords of such a per-
17	formance from an unauthorized fixation;
18	"(2) transmits or otherwise communicates to
19	the public the sounds or sounds and images of a live
20	musical performance; or
21	"(3) distributes or offers to distribute, sells or
22	offers to sell, rents or offers to rent, or traffics in
23	any copy or phonorecord fixed as described in para-
24	graph (1), regardless of whether the fixations oc-
25	curred in the United States:

- 1 shall be imprisoned for not more than 5 years or fined
- 2 in the amount set forth in this title, or both, or if the
- 3 offense is a second or subsequent offense, shall be impris-
- 4 oned for not more than 10 years or fined in the amount
- 5 set forth in this title, or both.
- 6 "(b) Forfeiture and Destruction.—When a per-
- 7 son is convicted of a violation of subsection (a), the court
- 8 shall order the forfeiture and destruction of any copies or
- 9 phonorecords created in violation thereof, as well as any
- 10 plates, molds, matrices, masters, tapes, and film negatives
- 11 by means of which such copies or phonorecords may be
- 12 made. The court may also, in its discretion, order the for-
- 13 feiture and destruction of any other equipment by means
- 14 of which such copies or phonorecords may be reproduced,
- 15 taking into account the nature, scope, and proportionality
- 16 of the use of the equipment in the offense.
- 17 "(c) Seizure and Forfeiture.—If copies or
- 18 phonorecords of sounds or sounds and images of a live
- 19 musical performance are fixed outside of the United States
- 20 without the consent of the performer or performers in-
- 21 volved, such copies or phonorecords are subject to seizure
- 22 and forfeiture in the United States in the same manner
- 23 as property imported in violation of the customs laws. The
- 24 Secretary of the Treasury shall, not later than 60 days
- 25 after the date of the enactment of the Uruguay Round

- 1 Agreements Act, issue regulations to carry out this sub-
- 2 section, including regulations by which any performer
- 3 may, upon payment of a specified fee, be entitled to notifi-
- 4 cation by the United States Customs Service of the impor-
- 5 tation of copies or phonorecords that appear to consist of
- 6 unauthorized fixations of the sounds or sounds and images
- 7 of a live musical performance.
- 8 "(d) Definitions.—As used in this section—
- 9 "(1) the terms 'copy', 'fixed', 'musical work',
- 10 'phonorecord', 'reproduce', 'sound recordings', and
- 11 'transmit' mean those terms within the meaning of
- title 17; and
- 13 "(2) the term 'traffic in' means transport,
- transfer, or otherwise dispose of, to another, as con-
- sideration for anything of value, or make or obtain
- 16 control of with intent to transport, transfer, or dis-
- pose of.
- 18 "(e) APPLICABILITY.—This section shall apply to any
- 19 Act or Acts that occur on or after the date of the enact-
- 20 ment of the Uruguay Round Agreements Act.".
- 21 (b) Conforming Amendment.—The table of sec-
- 22 tions for chapter 113 of title 18, United States Code, is
- 23 amended by inserting after the item relating to section
- 24 2319 the following:

[&]quot;2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.".

1 SEC. 514. RESTORED WORKS.

2	(a)	T_{NI}	CENEDAL	.—Section	104Δ	οf	titla	17	United
Z	(a)	IIN	GENERAL	.—Section	104A	UΙ	uue	11.	Omteu

- 3 States Code, is amended to read as follows:
- 4 "§ 104A. Copyright in restored works
- 5 "(a) AUTOMATIC PROTECTION AND TERM.—
- 6 "(1) TERM.—

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- 7 "(A) Copyright subsists, in accordance 8 with this section, in restored works, and vests 9 automatically on the date of restoration.
 - "(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.
 - "(2) EXCEPTION.—Any work in which the copyright was ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, is not a restored work.
- 21 "(b) Ownership of Restored Copyright.—A re-
- 22 stored work vests initially in the author or initial
- 23 rightholder of the work as determined by the law of the
- 24 source country of the work.
- 25 "(c) Filing of Notice of Intent to Enforce
- 26 Restored Copyright Against Reliance Parties.—

- 1 On or after the date of restoration, any person who owns
- 2 a copyright in a restored work or an exclusive right therein
- 3 may file with the Copyright Office a notice of intent to
- 4 enforce that person's copyright or exclusive right or may
- 5 serve such a notice directly on a reliance party. Acceptance
- 6 of a notice by the Copyright Office is effective as to any
- 7 reliance parties but shall not create a presumption of the
- 8 validity of any of the facts stated therein. Service on a
- 9 reliance party is effective as to that reliance party and
- 10 any other reliance parties with actual knowledge of such
- 11 service and of the contents of that notice.
- 12 "(d) Remedies for Infringement of Restored
- 13 Copyrights.—
- "(1) Enforcement of copyright in re-Stored works in the absence of a reliance Party.—As against any party who is not a reliance party, the remedies provided in chapter 5 of this title shall be available on or after the date of res-
- toration of a restored copyright with respect to an act of infringement of the restored copyright that is
- commenced on or after the date of restoration.
- 22 "(2) Enforcement of Copyright in Re-
- 23 STORED WORKS AS AGAINST RELIANCE PARTIES.—
- As against a reliance party, except to the extent pro-
- vided in paragraphs (3) and (4), the remedies pro-

1	vided in chapter 5 of this title shall be available,
2	with respect to an act of infringement of a restored
3	copyright, on or after the date of restoration of the
4	restored copyright if the requirements of either of
5	the following subparagraphs are met:
6	"(A)(i) The owner of the restored copy-
7	right (or such owner's agent) or the owner of
8	an exclusive right therein (or such owner's
9	agent) files with the Copyright Office, during
10	the 24-month period beginning on the date of
11	restoration, a notice of intent to enforce the re-
12	stored copyright; and
13	"(ii)(I) the act of infringement commenced
14	after the end of the 12-month period beginning
15	on the date of publication of the notice in the
16	Federal Register;
17	"(II) the act of infringement commenced
18	before the end of the 12-month period described
19	in subclause (I) and continued after the end of
20	that 12-month period, in which case remedies
21	shall be available only for infringement occur-
22	ring after the end of that 12-month period; or
23	"(III) copies or phonorecords of a work in
24	which copyright has been restored under this

1	section are made after publication of the notice
2	of intent in the Federal Register.
3	"(B)(i) The owner of the restored copy-
4	right (or such owner's agent) or the owner of
5	an exclusive right therein (or such owner's
6	agent) serves upon a reliance party a notice of
7	intent to enforce a restored copyright; and
8	"(ii)(I) the act of infringement commenced
9	after the end of the 12-month period beginning
10	on the date the notice of intent is received;
11	"(II) the act of infringement commenced
12	before the end of the 12-month period described
13	in subclause (I) and continued after the end of
14	that 12-month period, in which case remedies
15	shall be available only for the infringement oc-
16	curring after the end of that 12-month period;
17	or
18	"(III) copies or phonorecords of a work in
19	which copyright has been restored under this
20	section are made after receipt of the notice of
21	intent.
22	In the event that notice is provided under both sub-
23	paragraphs (A) and (B), the 12-month period re-
24	ferred to in such subparagraphs shall run from the
25	earlier of publication or service of notice.

1	"(3) Existing derivative works.—(A) In
2	the case of a derivative work that is based upon a
3	restored work and is created—
4	"(i) before the date of the enactment of
5	the Uruguay Round Agreements Act, if the
6	source country of the derivative work is an eli-
7	gible country on such date, or
8	"(ii) before the date of adherence or proc-
9	lamation, if the source country of the derivative
10	work is not an eligible country on such date of
11	enactment,
12	a reliance party may continue to exploit that work
13	for the duration of the restored copyright if the reli-
14	ance party pays to the owner of the restored copy-
15	right reasonable compensation for conduct which
16	would be subject to a remedy for infringement but
17	for the provisions of this paragraph.
18	"(B) In the absence of an agreement between
19	the parties, the amount of such compensation shall
20	be determined by an action in United States district
21	court, and shall reflect any harm to the actual or po-
22	tential market for or value of the restored work from
23	the reliance party's continued exploitation of the
24	work, as well as compensation for the relative con-

tributions of expression of the author of the restored work and the reliance party to the derivative work.

"(4) COMMENCEMENT OF INFRINGEMENT FOR RELIANCE PARTIES.—For purposes of section 412, in the case of reliance parties, infringement shall be deemed to have commenced before registration when acts which would have constituted infringement had the restored work been subject to copyright were commenced before the date of restoration.

10 "(e) Notices of Intent To Enforce a Restored11 Copyright.—

"(1) Notices of intent filed with the Copyright Office to enforce a restored copyright shall be signed by the owner of the restored copyright or the owner of an exclusive right therein, who files the notice under subsection (d)(2)(A)(i) (hereafter in this paragraph referred to as the 'owner'), or by the owner's agent, shall identify the title of the restored work, and shall include an English translation of the title and any other alternative titles known to the owner by which the restored work may be identified, and an address and telephone number at which the owner may be contacted. If the notice is signed by an agent, the agency rela-

tionship must have been constituted in a writing signed by the owner before the filing of the notice.

The Copyright Office may specifically require in regulations other information to be included in the notice, but failure to provide such other information shall not invalidate the notice or be a basis for refusal to list the restored work in the Federal Register.

- "(ii) If a work in which copyright is restored has no formal title, it shall be described in the notice of intent in detail sufficient to identify it.
- "(iii) Minor errors or omissions may be corrected by further notice at any time after the notice of intent is filed. Notices of corrections for such minor errors or omissions shall be accepted after the period established in subsection (d)(2)(A)(i). Notices shall be published in the Federal Register pursuant to subparagraph (B).
- "(B)(i) The Register of Copyrights shall publish in the Federal Register, commencing not later than 4 months after the date of restoration for a particular nation and every 4 months thereafter for a period of 2 years, lists identifying restored works and the ownership thereof if a notice of intent to enforce a restored copyright has been filed.

1 "(ii) Not less than 1 list containing all notices 2 of intent to enforce shall be maintained in the Public 3 Information Office of the Copyright Office and shall 4 be available for public inspection and copying during 5 regular business hours pursuant to sections 705 and 6 708. Such list shall also be published in the Federal 7 Register on an annual basis for the first 2 years 8 after the applicable date of restoration.

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"(C) The Register of Copyrights is authorized to fix reasonable fees based on the costs of receipt, processing, recording, and publication of notices of intent to enforce a restored copyright and corrections thereto.

"(D)(i) Not later than 90 days before the date the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, the Copyright Office shall issue and publish in the Federal Register regulations governing the filing under this subsection of notices of intent to enforce a restored copyright.

"(ii) Such regulations shall permit owners of restored copyrights to file simultaneously for registration of the restored copyright. "(2) Notices of intent served on a reliance a restored copyright may be served on a reliance party at any time after the date of restoration of the restored copyright.

"(B) Notices of intent to enforce a restored copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, and shall include an English translation of the title, any other alternative titles known to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.

"(3) EFFECT OF MATERIAL FALSE STATE-MENTS.—Any material false statement knowingly made with respect to any restored copyright identified in any notice of intent shall make void all claims and assertions made with respect to such restored copyright.

1	(t) IMMUNITY FROM WARRANTY AND RELATED LI-
2	ABILITY.—
3	"(1) IN GENERAL.—Any person who warrants
4	promises, or guarantees that a work does not violate
5	an exclusive right granted in section 106 shall not
6	be liable for legal, equitable, arbitral, or administra-
7	tive relief if the warranty, promise, or guarantee is
8	breached by virtue of the restoration of copyright
9	under this section, if such warranty, promise, or
10	guarantee is made before January 1, 1995.
11	"(2) Performances.—No person shall be re-
12	quired to perform any act if such performance is
13	made infringing by virtue of the restoration of copy-
14	right under the provisions of this section, if the obli-
15	gation to perform was undertaken before January 1
16	1995.
17	"(g) Proclamation of Copyright Restora-
18	TION.—Whenever the President finds that a particular
19	foreign nation extends, to works by authors who are na-
20	tionals or domiciliaries of the United States, restored
21	copyright protection on substantially the same basis as
22	provided under this section, the President may by procla-
23	mation extend restored protection provided under this sec-
24	tion to any work—

1	"(1) of which one or more of the authors is, on
2	the date of first publication, a national, domiciliary,
3	or sovereign authority of that nation; or
4	"(2) which was first published in that nation.
5	The President may revise, suspend, or revoke any such
6	proclamation or impose any conditions or limitations on
7	protection under such a proclamation.
8	"(h) Definitions.—For purposes of this section and
9	section 109(a):
10	"(1) The term 'date of adherence or proclama-
11	tion' means the earlier of the date on which a for-
12	eign nation which, as of the date the WTO Agree-
13	ment enters into force with respect to the United
14	States, is not a nation adhering to the Berne Con-
15	vention or a WTO member country, becomes—
16	"(A) a nation adhering to the Berne Con-
17	vention or a WTO member country; or
18	"(B) subject to a Presidential proclamation
19	under subsection (g).
20	"(2) The 'date of restoration' of a restored
21	copyright is the later of—
22	"(A) the date on which the Agreement on
23	Trade-Related Aspects of Intellectual Property
24	referred to in section $101(d)(15)$ of the Uru-
25	guay Round Agreements Act enters into force

1	with respect to the United States, if the source
2	country of the restored work is a nation adher-
3	ing to the Berne Convention or a WTO member
4	country on such date; or
5	"(B) the date of adherence or proclama-
6	tion, in the case of any other source country of
7	the restored work.
8	"(3) The term 'eligible country' means a nation,
9	other than the United States, that is a WTO mem-
10	ber country, adheres to the Berne Convention, or is
11	subject to a proclamation under section 104A(g).
12	"(4) The term 'reliance party' means any per-
13	son who—
14	"(A) with respect to a particular work, en-
15	gages in acts, before the source country of that
16	work becomes an eligible country, which would
17	have violated section 106 if the restored work
18	had been subject to copyright protection, and
19	who, after the source country becomes an eligi-
20	ble country, continues to engage in such acts;
21	"(B) before the source country of a par-
22	ticular work becomes an eligible country, makes
23	or acquires 1 or more copies or phonorecords of
24	that work; or

1	"(C) as the result of the sale or other dis-
2	position of a derivative work covered under sub-
3	section (d)(3), or significant assets of a person
4	described in subparagraph (A) or (B), is a suc-
5	cessor, assignee, or licensee of that person.
6	"(5) The term 'restored copyright' means copy-
7	right in a restored work under this section.
8	"(6) The term 'restored work' means an origi-
9	nal work of authorship that—
10	"(A) is protected under subsection (a);
11	"(B) is not in the public domain in its
12	source country through expiration of term of
13	protection;
14	"(C) is in the public domain in the United
15	States due to—
16	"(i) noncompliance with formalities
17	imposed at any time by United States
18	copyright law, including failure of renewal,
19	lack of proper notice, or failure to comply
20	with any manufacturing requirements;
21	"(ii) lack of subject matter protection
22	in the case of sound recordings fixed before
23	February 15, 1972; or
24	''(iii) lack of national eligibility; and

1	"(D) has at least one author or rightholder
2	who was, at the time the work was created, a
3	national or domiciliary of an eligible country,
4	and if published, was first published in an eligi-
5	ble country and not published in the United
6	States during the 30-day period following publi-
7	cation in such eligible country.
8	"(7) The term 'rightholder' means the person—
9	"(A) who, with respect to a sound record-
10	ing, first fixes a sound recording with author-
11	ization, or
12	"(B) who has acquired rights from the per-
13	son described in subparagraph (A) by means of
14	any conveyance or by operation of law.
15	"(8) The 'source country' of a restored work
16	is—
17	"(A) a nation other than the United
18	States;
19	"(B) in the case of an unpublished work—
20	"(i) the eligible country in which the
21	author or rightholder is a national or
22	domiciliary, or, if a restored work has more
23	than 1 author or rightholder, the majority
24	of foreign authors or rightholders are na-

1	tionals or domiciliaries of eligible countries;
2	or
3	"(ii) if the majority of authors or
4	rightholders are not foreign, the nation
5	other than the United States which has the
6	most significant contacts with the work;
7	and
8	"(C) in the case of a published work—
9	"(i) the eligible country in which the
10	work is first published, or
11	"(ii) if the restored work is published
12	on the same day in 2 or more eligible
13	countries, the eligible country which has
14	the most significant contacts with the
15	work.
16	"(9) The terms 'WTO Agreement' and 'WTO
17	member country' have the meanings given those
18	terms in paragraphs (9) and (10), respectively, of
19	section 2 of the Uruguay Round Agreements Act.".
20	(b) Limitation.—Section 109(a) of title 17, United
21	States Code, is amended by adding at the end the follow-
22	ing: "Notwithstanding the preceding sentence, copies or
23	phonorecords of works subject to restored copyright under
24	section 104A that are manufactured before the date of
25	restoration of copyright or, with respect to reliance par-

- 1 ties, before publication or service of notice under section
- 2 104A(e), may be sold or otherwise disposed of without the
- 3 authorization of the owner of the restored copyright for
- 4 purposes of direct or indirect commercial advantage only
- 5 during the 12-month period beginning on—
- 6 "(1) the date of the publication in the Federal
- 7 Register of the notice of intent filed with the Copy-
- 8 right Office under section 104A(d)(2)(A), or
- 9 "(2) the date of the receipt of actual notice
- served under section 104A(d)(2)(B),
- 11 whichever occurs first.".
- 12 (c) Conforming Amendment.—The item relating
- 13 to section 104A in the table of sections for chapter 1 of
- 14 title 17, United States Code, is amended to read as fol-
- 15 lows:

"104A. Copyright in restored works.".

16 Subtitle B—Trademark Provisions

- 17 SEC. 521. DEFINITION OF "ABANDONED".
- Section 45 of the Act entitled "An Act to provide for
- 19 the registration and protection of trade-marks used in
- 20 commerce, to carry out the provisions of certain inter-
- 21 national conventions, and for other purposes", approved
- 22 July 5, 1946 (15 U.S.C. 1127) (hereafter in this title re-
- 23 ferred to as the "Trademark Act of 1946"), is amended
- 24 by amending the paragraph defining "abandoned" to read
- 25 as follows:

1	"A mark shall be deemed to be 'abandoned' if either
2	of the following occurs:
3	"(1) When its use has been discontinued with
4	intent not to resume such use. Intent not to resume
5	may be inferred from circumstances. Nonuse for 3
6	consecutive years shall be prima facie evidence of
7	abandonment. 'Use' of a mark means the bona fide
8	use of such mark made in the ordinary course of
9	trade, and not made merely to reserve a right in a
10	mark.
11	"(2) When any course of conduct of the owner,
12	including acts of omission as well as commission,
13	causes the mark to become the generic name for the
14	goods or services on or in connection with which it
15	is used or otherwise to lose its significance as a
16	mark. Purchaser motivation shall not be a test for
17	determining abandonment under this paragraph.".
18	SEC. 522. NONREGISTRABILITY OF MISLEADING GEO-
19	GRAPHIC INDICATIONS FOR WINES AND SPIR-
20	ITS.
21	Subsection (a) of section 2 of the Trademark Act of
22	1946 (15 U.S.C. 1052(a)) is amended to read as follows:
23	"(a) Consists of or comprises immoral, deceptive, or
24	scandalous matter; or matter which may disparage or
25	falsely suggest a connection with persons, living or dead,

- 1 institutions, beliefs, or national symbols, or bring them
- 2 into contempt, or disrepute; or a geographical indication
- 3 which, when used on or in connection with wines or spirits,
- 4 identifies a place other than the origin of the goods and
- 5 is first used on or in connection with wines or spirits by
- 6 the applicant on or after one year after the date on which
- 7 the WTO Agreement (as defined in section 2(9) of the
- 8 Uruguay Round Agreements Act) enters into force with
- 9 respect to the United States.".
- 10 SEC. 523. EFFECTIVE DATE.
- 11 The amendments made by this subtitle take effect
- 12 one year after the date on which the WTO Agreement en-
- 13 ters into force with respect to the United States.

14 Subtitle C—Patent Provisions

- 15 SEC. 531. TREATMENT OF INVENTIVE ACTIVITY.
- 16 (a) IN GENERAL.—Section 104 of title 35, United
- 17 States Code, is amended to read as follows:
- 18 "§ 104. Invention made abroad
- 19 "(a) IN GENERAL.—
- 20 "(1) Proceedings in the
- 21 Patent and Trademark Office, in the courts, and be-
- fore any other competent authority, an applicant for
- a patent, or a patentee, may not establish a date of
- invention by reference to knowledge or use thereof,
- or other activity with respect thereto, in a foreign

1	country other than a NAFTA country or a WTO
2	member country, except as provided in sections 119
3	and 365 of this title.
4	"(2) Rights.—If an invention was made by a
5	person, civil or military—
6	"(A) while domiciled in the United States,
7	and serving in any other country in connection
8	with operations by or on behalf of the United
9	States,
10	"(B) while domiciled in a NAFTA country
11	and serving in another country in connection
12	with operations by or on behalf of that NAFTA
13	country, or
14	"(C) while domiciled in a WTO member
15	country and serving in another country in con-
16	nection with operations by or on behalf of that
17	WTO member country,
18	that person shall be entitled to the same rights of
19	priority in the United States with respect to such in-
20	vention as if such invention had been made in the
21	United States, that NAFTA country, or that WTO
22	member country, as the case may be.
23	"(3) Use of information.—To the extent
24	that any information in a NAFTA country or a
25	WTO member country concerning knowledge, use, or

other activity relevant to proving or disproving a date of invention has not been made available for use in a proceeding in the Patent and Trademark Office, a court, or any other competent authority to the same extent as such information could be made available in the United States, the Commissioner, court, or such other authority shall draw appropriate inferences, or take other action permitted by statute, rule, or regulation, in favor of the party that re-quested the information in the proceeding.

"(b) Definitions.—As used in this section—

- "(1) the term 'NAFTA country' has the meaning given that term in section 2(4) of the North American Free Trade Agreement Implementation Act; and
- "(2) the term 'WTO member country' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.".

(b) Effective Date.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to all patent applications that are filed on or after the date that is 12 months after the date of entry into force of the WTO Agreement with respect to the United States.

1	(2) Establishment of date.—An applicant
2	for a patent, or a patentee, may not establish a date
3	of invention for purposes of title 35, United States
4	Code, that is earlier than 12 months after the date
5	of entry into force of the WTO Agreement with re-
6	spect to the United States by reference to knowledge
7	or use, or other activity, in a WTO member country,
8	except as provided in sections 119 and 365 of such
9	title.
Λ	CEC 700 DAMENTE TEDM AND INTERNAL DRIODITY

10 SEC. 532. PATENT TERM AND INTERNAL PRIORITY.

- (a) PATENT RIGHTS.—
- 12 (1) CONTENTS AND TERM OF PATENT.—Section 13 154 of title 35, United States Code, is amended to 14 read as follows:

15 ****§154. Contents and term of patent**

16 "(a) IN GENERAL.—

11

17 "(1) CONTENTS.—Every patent shall contain a 18 short title of the invention and a grant to the pat-19 entee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or sell-20 21 ing the invention throughout the United States or 22 importing the invention into the United States, and, if the invention is a process, of the right to exclude 23 others from using, offering for sale or selling 24 25 throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.

- "(2) Term.—Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.
 - "(3) PRIORITY.—Priority under section 119, 365(a), or 365(b) of this title shall not be taken into account in determining the term of a patent.
 - "(4) Specification and drawing shall be annexed to the patent and be a part of such patent.

"(b) TERM EXTENSION.—

"(1) Interference delay or secrecy orders.—If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

1	"(2) Extension for appellate review.—If
2	the issue of a patent is delayed due to appellate re-
3	view by the Board of Patent Appeals and Inter-
4	ferences or by a Federal court and the patent is is-
5	sued pursuant to a decision in the review reversing
6	an adverse determination of patentability, the term
7	of the patent shall be extended for a period of time
8	but in no case more than 5 years. A patent shall not
9	be eligible for extension under this paragraph if it
10	is subject to a terminal disclaimer due to the issue
11	of another patent claiming subject matter that is not
12	patentably distinct from that under appellate review.
13	"(3) Limitations.—The period of extension re-
14	ferred to in paragraph (2)—
15	"(A) shall include any period beginning on
16	the date on which an appeal is filed under sec-
17	tion 134 or 141 of this title, or on which an ac-
18	tion is commenced under section 145 of this
19	title, and ending on the date of a final decision
20	in favor of the applicant;
21	"(B) shall be reduced by any time attrib-
22	utable to appellate review before the expiration
23	of 3 years from the filing date of the applica-
24	tion for patent; and

1	"(C) shall be reduced for the period of
2	time during which the applicant for patent did
3	not act with due diligence, as determined by the
4	Commissioner.
5	"(4) LENGTH OF EXTENSION.—The total dura-
6	tion of all extensions of a patent under this sub-
7	section shall not exceed 5 years.
8	"(c) Continuation.—
9	"(1) DETERMINATION.—The term of a patent
10	that is in force on or that results from an applica-
11	tion filed before the date that is 6 months after the
12	date of the enactment of the Uruguay Round Agree-
13	ments Act shall be the greater of the 20-year term
14	as provided in subsection (a), or 17 years from
15	grant, subject to any terminal disclaimers.
16	"(2) Remedies.—The remedies of sections
17	283, 284, and 285 of this title shall not apply to
18	Acts which—
19	"(A) were commenced or for which sub-
20	stantial investment was made before the date
21	that is 6 months after the date of the enact-
22	ment of the Uruguay Round Agreements Act
23	and
24	"(B) became infringing by reason of para-
25	graph (1).

"(3) REMUNERATION.—The acts referred to in paragraph (2) may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapter 28 and chapter 29 (other than those provisions excluded by paragraph (2)) of this title.".

- (2) Provision of Further Limited ReexamINATION AND CONDITIONS OF RESTRICTION REQUIREMENTS.—(A) The Commissioner of Patents
 and Trademarks shall prescribe regulations to provide for further limited reexamination of applications
 that have been pending for 2 years or longer as of
 the effective date of section 154(a)(2) of title 35,
 United States Code, as added by paragraph (1) of
 this subsection, taking into account any reference
 made in such application to any earlier filed application under section 120, 121, or 365(c) of such title.
 The Commissioner may establish appropriate fees
 for such further limited reexamination.
- (B) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for the examination of more than 1 independent and distinct invention in an application that has been pending for 3 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as

1	added by paragraph (1) of this subsection, taking
2	into account any reference made in such application
3	to any earlier filed application under section 120,
4	121, or 365(c) of such title. The Commissioner may
5	establish appropriate fees for such examination.
6	(b) Establishment of a Domestic Priority Sys-
7	TEM.—
8	(1) In General.—Section 119 of title 35,
9	United States Code, is amended—
10	(A) by amending the section caption to
11	read as follows:
12	"§ 119. Benefit of earlier filing date; right of priority";
13	(B) by designating the undesignated para-
14	graphs as subsections (a), (b), (c), and (d), re-
15	spectively; and
16	(C) by adding at the end the following:
17	$\rm ``(e)(1)$ An application for patent filed under section
18	111(a) or section 363 of this title for an invention dis-
19	closed in the manner provided by the first paragraph of
20	section 112 of this title in a provisional application filed
21	under section 111(b) of this title, by an inventor or inven-
22	tors named in the provisional application, shall have the
23	same effect, as to such invention, as though filed on the
24	date of the provisional application filed under section
25	111(b) of this title, if the application for patent filed under

- 1 section 111(a) or section 363 of this title is filed not later
- 2 than 12 months after the date on which the provisional
- 3 application was filed and if it contains or is amended to
- 4 contain a specific reference to the provisional application.
- 5 "(2) A provisional application filed under section
- 6 111(b) of this title may not be relied upon in any proceed-
- 7 ing in the Patent and Trademark Office unless the fee
- 8 set forth in subparagraph (A) or (C) of section 41(a)(1)
- 9 of this title has been paid and the provisional application
- 10 was pending on the filing date of the application for patent
- 11 under section 111(a) or section 363 of this title.".
- 12 (2) FEES.—Section 41(a)(1) of title 35, United
- 13 States Code, is amended by adding at the end the
- 14 following:
- 15 "(C) On filing each provisional application for
- an original patent, \$150.".
- 17 (3) APPLICATIONS.—Section 111 of title 35,
- 18 United States Code, is amended to read as follows:

19 ***§111. Application**

- 20 "(a) In General.—
- 21 "(1) WRITTEN APPLICATION.—An application
- for patent shall be made, or authorized to be made,
- by the inventor, except as otherwise provided in this
- 24 title, in writing to the Commissioner.

1	"(2) Contents.—Such application shall in-
2	clude—
3	"(A) a specification as prescribed by sec-
4	tion 112 of this title;
5	"(B) a drawing as prescribed by section
6	113 of this title; and
7	"(C) an oath by the applicant as pre-
8	scribed by section 115 of this title.
9	"(3) FEE AND OATH.—The application must be
10	accompanied by the fee required by law. The fee and
11	oath may be submitted after the specification and
12	any required drawing are submitted, within such pe-
13	riod and under such conditions, including the pay-
14	ment of a surcharge, as may be prescribed by the
15	Commissioner.
16	"(4) Failure to submit.—Upon failure to
17	submit the fee and oath within such prescribed pe-
18	riod, the application shall be regarded as abandoned,
19	unless it is shown to the satisfaction of the Commis-
20	sioner that the delay in submitting the fee and oath
21	was unavoidable or unintentional. The filing date of
22	an application shall be the date on which the speci-
23	fication and any required drawing are received in the
24	Patent and Trademark Office.
25	"(b) Provisional Application —

1	"(1) AUTHORIZATION.—A provisional applica-
2	tion for patent shall be made or authorized to be
3	made by the inventor, except as otherwise provided
4	in this title, in writing to the Commissioner. Such
5	application shall include—
6	"(A) a specification as prescribed by the
7	first paragraph of section 112 of this title; and
8	"(B) a drawing as prescribed by section
9	113 of this title.
10	"(2) CLAIM.—A claim, as required by the sec-
11	ond through fifth paragraphs of section 112, shall
12	not be required in a provisional application.
13	"(3) FEE.—(A) The application must be ac-
14	companied by the fee required by law.
15	"(B) The fee may be submitted after the speci-
16	fication and any required drawing are submitted
17	within such period and under such conditions, in-
18	cluding the payment of a surcharge, as may be pre-
19	scribed by the Commissioner.
20	"(C) Upon failure to submit the fee within such
21	prescribed period, the application shall be regarded
22	as abandoned, unless it is shown to the satisfaction
23	of the Commissioner that the delay in submitting
24	the fee was unavoidable or unintentional.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

- "(5) ABANDONMENT.—The provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.
- "(6) OTHER BASIS FOR PROVISIONAL APPLICA-TION.—Subject to all the conditions in this subsection and section 119(e) of this title, and as prescribed by the Commissioner, an application for patent filed under subsection (a) may be treated as a provisional application for patent.
- "(7) NO RIGHT OF PRIORITY OR BENEFIT OF EARLIEST FILING DATE.—A provisional application shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title.
- "(8) APPLICABLE PROVISIONS.—The provisions of this title relating to applications for patent shall apply to provisional applications for patent, except as otherwise provided, and except that provisional

1	applications for patent shall not be subject to sec-
2	tions 115, 131, 135, and 157 of this title.".
3	(c) Conforming Changes.—
4	(1) Section 156(a)(2) of title 35, United States
5	Code, is amended by inserting "under subsection
6	(e)(1) of this section" after "extended".
7	(2) Section 172 of title 35, United States Code,
8	is amended—
9	(A) by striking "section 119" and insert-
10	ing "subsections (a) through (d) of section
11	119''; and
12	(B) by inserting at the end the following
13	new sentence:
14	"The right of priority provided for by section 119(e) of
15	this title shall not apply to designs.".
16	(3) Section 173 of title 35, United States Code,
17	is amended by inserting "from the date of grant"
18	after "years".
19	(4) Section 365 of title 35, United States Code,
20	is amended—
21	(A) in subsection (a), by striking "section
22	119" and inserting "subsections (a) through (d)
23	of section 119"; and

1	(B) in subsection (b), by striking "the first
2	paragraph of section 119" and inserting "sec-
3	tion 119(a)".
4	(5) Section 373 of title 35, United States Code,
5	is amended by striking "section 119" and inserting
6	"subsections (a) through (d) of section 119".
7	(6) The table of sections for chapter 11 of title
8	35, United States Code, is amended—
9	(A) by striking the item relating to section
10	111 and inserting the following:
	"111. Application.";
11	and
12	(B) by striking the item relating to section
13	119 and inserting the following:
	"119. Benefit of earlier filing date; right of priority.".
14	SEC. 533. PATENT RIGHTS.
15	(a) Definition of Infringement.—Section 271 of
16	title 35, United States Code, is amended—
17	(1) in subsection (a)—
18	(A) by inserting ", offers to sell," after
19	"uses"; and
20	(B) by inserting "or imports into the Unit-
21	ed States any patented invention" after "the
22	United States";

1	(2) in subsection (c), by striking "sells" and in-
2	serting "offers to sell or sells within the United
3	States or imports into the United States";
4	(3) in subsection (e)—
5	(A) in paragraph (1), by striking "or sell"
6	and inserting "offer to sell, or sell within the
7	United States or import into the United
8	States";
9	(B) in paragraph (3), by striking "or sell-
10	ing" and inserting "offering to sell, or selling
11	within the United States or importing into the
12	United States'';
13	(C) in paragraph (4)(B), by striking "or
14	sale" and inserting "offer to sell, or sale within
15	the United States or importation into the Unit-
16	ed States''; and
17	(D) in paragraph (4)(C), by striking "or
18	sale" and inserting "offer to sell, or sale within
19	the United States or importation into the Unit-
20	ed States'';
21	(4) in subsection (g)—
22	(A) by striking "sells" and inserting "of-
23	fers to sell, sells,";
24	(B) by striking "importation, sale," and
25	inserting "importation, offer to sell, sale,"; and

1	(C) by striking "other use or" and insert-
2	ing "other use, offer to sell, or"; and
3	(5) by adding at the end the following:
4	"(i) As used in this section, an 'offer for sale' or an
5	'offer to sell' by a person other than the patentee, or any
6	designee of the patentee, is that in which the sale will
7	occur before the expiration of the term of the patent.".
8	(b) Conforming Amendments.—
9	(1) Paragraph (2) of section 41(c) of title 35,
10	United States Code, is amended to read as follows:
11	"(2) A patent, the term of which has been maintained
12	as a result of the acceptance of a payment of a mainte-
13	nance fee under this subsection, shall not abridge or affect
14	the right of any person or that person's successors in busi-
15	ness who made, purchased, offered to sell, or used any-
16	thing protected by the patent within the United States,
17	or imported anything protected by the patent into the
18	United States after the 6-month grace period but prior
19	to the acceptance of a maintenance fee under this sub-
20	section, to continue the use of, to offer for sale, or to sell
21	to others to be used, offered for sale, or sold, the specific
22	thing so made, purchased, offered for sale, used, or im-
23	ported. The court before which such matter is in question
24	may provide for the continued manufacture, use, offer for
25	sale, or sale of the thing made, purchased, offered for sale,

- 1 or used within the United States, or imported into the
- 2 United States, as specified, or for the manufacture, use,
- 3 offer for sale, or sale in the United States of which sub-
- 4 stantial preparation was made after the 6-month grace pe-
- 5 riod but before the acceptance of a maintenance fee under
- 6 this subsection, and the court may also provide for the
- 7 continued practice of any process that is practiced, or for
- 8 the practice of which substantial preparation was made,
- 9 after the 6-month grace period but before the acceptance
- 10 of a maintenance fee under this subsection, to the extent
- 11 and under such terms as the court deems equitable for
- 12 the protection of investments made or business com-
- 13 menced after the 6-month grace period but before the ac-
- 14 ceptance of a maintenance fee under this subsection.".
- 15 (2) The second undesignated paragraph of sec-
- tion 252 of title 35, United States Code, is amended
- to read as follows:
- 18 "A reissued patent shall not abridge or affect the
- 19 right of any person or that person's successors in business
- 20 who, prior to the grant of a reissue, made, purchased, of-
- 21 fered to sell, or used within the United States, or imported
- 22 into the United States, anything patented by the reissued
- 23 patent, to continue the use of, to offer to sell, or to sell
- 24 to others to be used, offered for sale, or sold, the specific
- 25 thing so made, purchased, offered for sale, used, or im-

1	ported unless the making, using, offering for sale, or sell-
2	ing of such thing infringes a valid claim of the reissued
3	patent which was in the original patent. The court before
4	which such matter is in question may provide for the con-
5	tinued manufacture, use, offer for sale, or sale of the thing
6	made, purchased, offered for sale, used, or imported as
7	specified, or for the manufacture, use, offer for sale, or
8	sale in the United States of which substantial preparation
9	was made before the grant of the reissue, and the court
10	may also provide for the continued practice of any process
11	patented by the reissue that is practiced, or for the prac-
12	tice of which substantial preparation was made, before the
13	grant of the reissue, to the extent and under such terms
14	as the court deems equitable for the protection of invest-
15	ments made or business commenced before the grant of
16	the reissue.".
17	(3) Section 262 of title 35, United States Code,
18	is amended—
19	(A) by striking "use or sell" and inserting
20	"use, offer to sell, or sell"; and
21	(B) by inserting "within the United States,
22	or import the patented invention into the
23	United States," after "invention".

1	(4) Section 272 of title 35, United States Code,
2	is amended by striking "not sold" and inserting "not
3	offered for sale or sold".
4	(5) Section 287 of title 35, United States Code,
5	is amended—
6	(A) in subsection (a)—
7	(i) by striking ''making or selling''
8	and inserting "making, offering for sale, or
9	selling within the United States"; and
10	(ii) by inserting ''or importing any
11	patented article into the United States,"
12	after "under them,"; and
13	(B) in subsection (b)—
14	(i) in paragraph (1)(C), by striking
15	"use, or sale" and inserting "use, offer for
16	sale, or sale'';
17	(ii) in paragraph (4)(A), by striking
18	"sold or" and inserting "sold, offered for
19	sale, or" in the matter preceding clause (i);
20	(iii) in paragraph (4)(A)(ii), by strik-
21	ing "use, or sale" and inserting "use, offer
22	for sale, or sale";
23	(iv) in paragraph (4)(C), by striking
24	"have been sold" and inserting "have been
25	offered for sale or sold"; and

1	(v) in paragraph (4)(C), by striking
2	"United States before" and inserting
3	"United States, or imported by the person
4	into the United States, before".
5	(6) Section 292(a) of title 35, United States
6	Code, is amended—
7	(A) by striking "used, or sold by him" and
8	inserting "used, offered for sale, or sold by such
9	person within the United States, or imported by
10	the person into the United States"; and
11	(B) by striking "made or sold" and insert-
12	ing "made, offered for sale, sold, or imported
13	into the United States".
14	(7) Section 295 of title 35, United States Code,
15	is amended by striking "sale, or use" and inserting
16	"sale, offer for sale, or use".
17	(8) Section 307(b) of title 35, United States
18	Code, is amended by striking "used anything" and
19	inserting "used within the United States, or im-
20	ported into the United States, anything".
21	SEC. 534. EFFECTIVE DATES AND APPLICATION.
22	(a) In General.—Subject to subsection (b), the
23	amendments made by this subtitle take effect on the date
24	that is one year after the date on which the WTO Agree-
25	ment enters into force with respect to the United States.

1 (b) PATENT APPLICATIONS.—

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- (1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 532 take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all patent applications filed in the United States on or after the effective date.
 - (2) Section 154(a)(1).—Section 154(a)(1) of title 35, United States Code, as amended by section 532(a)(1) of this Act, shall take effect on the effective date described in subsection (a).
 - (3) EARLIEST FILING.—The term of a patent granted on a application that is filed on or after the effective date described in subsection (a) and that contains a specific reference to an earlier application filed under the provisions of section 120, 121, or 365(c) of title 35, United States Code, shall be measured from the filing date of the earliest filed application.

20 TITLE VI—RELATED PROVISIONS

21 Subtitle A—Expiring Provisions

- 22 SEC. 601. GENERALIZED SYSTEM OF PREFERENCES.
- 23 (a) Extension of Duty-Free Treatment Under
- 24 System.—Section 505(a) of the Trade Act of 1974 (19

1	U.S.C. 2465(a)) is amended by striking "September 30,
2	1994" and inserting "July 31, 1995".
3	(b) RETROACTIVE APPLICATION FOR CERTAIN LIQ-
4	UIDATIONS AND RELIQUIDATIONS.—
5	(1) IN GENERAL.—Notwithstanding section 514
6	of the Tariff Act of 1930 or any other provision of
7	law and subject to paragraph (2), the entry—
8	(A) of any article to which duty-free treat-
9	ment under title V of the Trade Act of 1974
10	would have applied if the entry had been made
11	on September 30, 1994, and
12	(B) that was made after September 30,
13	1994, and before such date of enactment,
14	shall be liquidated or reliquidated as free of duty,
15	and the Secretary of the Treasury shall refund any
16	duty paid with respect to such entry. As used in this
17	subsection, the term "entry" includes a withdrawal
18	from warehouse for consumption.
19	(2) REQUESTS.—Liquidation or reliquidation
20	may be made under paragraph (1) with respect to
21	an entry only if a request therefor is filed with the
22	Customs Service, within 180 days after the date of
23	the enactment of this Act, that contains sufficient
24	information to enable the Customs Service—
25	(A) to locate the entry: or

1	(B) to reconstruct the entry if it cannot be
2	located.
3	SEC. 602. U.S. INSULAR POSSESSIONS.
4	(a) Extension of Verification and Certificate
5	Issuance Provisions.—Additional U.S. Note 5(h)(i) to
6	chapter 91 of the HTS is amended by striking "and before
7	January 1, 1995," and inserting "and before January 1,
8	2007,".
9	(b) Extension of Certificate Number PIC-EV-
10	89.—Notwithstanding any other provision of law, the pro-
11	duction incentive certificate, number PIC-EV-89, issued
12	jointly by the Secretary of Commerce and the Secretary
13	of the Interior, pursuant to paragraph $(h)(i)(B)$ of Addi-
14	tional U.S. Note 5 to chapter 91 of the HTS (formerly
15	paragraph (h)(i)(II) of headnote 6 of schedule 7, part 2,
16	subpart E of the Tariff Schedules of the United States),
17	shall be deemed to have been reissued on the date of the
18	enactment of this Act in the amount of the balance re-
19	maining on such certificate, and shall expire on the date
20	that is 1 year after such date of enactment.

Subtitle B—Certain Customs Provisions

3 SEC. 611. REIMBURSEMENTS FROM CUSTOMS USER FEE
4 ACCOUNT.

5 (a) IN GENERAL.—Subclause (II) of section

6 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget

7 Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i)(II))

8 is amended to read as follows:

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"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,".

21 (b) EFFECTIVE DATE.—The amendment made by 22 this section shall apply to customs inspectional services 23 performed on or after January 1, 1994.

SEC. 612. MERCHANDISE PROCESSING FEES. 2 (a) IN GENERAL.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 3 4 58c) is amended— (1) in subsection (a)(9)— 5 (A) in subparagraph (A), by striking 6 "0.17" and inserting "0.21", 7 (B) in subparagraph (B)(i), by striking 8 "(but not to a rate of more than 0.19 percent 9 nor less than 0.15 percent) that would" and in-10 11 serting "(but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the 12 13 amounts specified in subsection (b)(8)(A)(i)(but not to more than \$485 nor less than \$21) 14 to rates and amounts which would", and 15 (C) in subparagraph (B)(ii), by striking 16 "section 613A of the Tariff Act of 1930" and 17 inserting "subsection (f)" 18 19 (2) in subsection (a)(10)— (A) in subparagraph (C), by striking 20 "entry or release." and inserting "entry or re-21 lease.". 22 (B) in clause (ii), by striking "\$5" and in-23 serting "\$6", and 24 (C) in clause (iii), by striking "\$8" and in-25

serting "\$9", and

1	(3) in subsection $(b)(8)(A)(i)$, by striking
2	"\$400 or be less than \$21", and inserting "\$485 or
3	be less than \$25, unless adjusted pursuant to sub-
4	section (a)(9)(B)".
5	(b) Effective Date.—The amendments made by
6	this section apply to articles entered, or withdrawn from
7	warehouse for consumption, on or after January 1, 1995.
8	Subtitle C—Conforming
9	Amendments
10	SEC. 621. CONFORMING AMENDMENTS.
11	(a) Trade Laws.—
12	(1) Section 1317(a)(1) of the Omnibus Trade
13	and Competitiveness Act of 1988 (19 U.S.C.
14	1677k(a)(1)) is amended—
15	(A) by inserting "(A)" after "(1)";
16	(B) by striking "General Agreement on
17	Tariffs and Trade" and inserting "GATT
18	1994''; and
19	(C) by adding at the end the following:
20	"(B) The term 'GATT 1994' has the meaning
21	given that term in section 2(1)(B) of the Uruguay
22	Round Agreements Act.".
23	(2) Section 212(c)(4) of the Caribbean Basin
24	Economic Recovery Act (19 U.S.C. 2702(c)(4)) is
25	amended by striking "General" and all that follows

1	through "1979" and inserting "WTO Agreement
2	and the multilateral trade agreements (as such
3	terms are defined in paragraphs (9) and (4), respec-
4	tively, of section 2 of the Uruguay Round Agree-
5	ments Act)".
6	(3) Section 203(d)(4) of the Andean Trade
7	Preference Act (19 U.S.C. 3202(d)(4)) is amended
8	by striking "General" and all that follows through
9	"1979" and inserting "WTO Agreement and the
10	multilateral trade agreements (as such terms are de-
11	fined in paragraphs (9) and (4), respectively, of sec-
12	tion 2 of the Uruguay Round Agreements Act)".
13	(4) Section 1106 of the Omnibus Trade and
14	Competitiveness Act of 1988 (19 U.S.C. 2905) is
15	amended—
16	(A) in subsection (a), by striking "the
17	GATT" and inserting "the GATT 1947, or to
18	the WTO Agreement,";
19	(B) in subsections (b) and (c), by inserting
20	after "the GATT" each place it appears "1947
21	or the WTO Agreement";
22	(C) by adding at the end the following new
23	subsection:
24	"(e) Definitions.—For purposes of this section:—

1	"(1) The term 'GATT 1947' has the meaning
2	given that term in section 2(1)(A) of the Uruguay
3	Round Agreements Act.
4	"(2) The term 'WTO Agreement' means the
5	Agreement Establishing the World Trade Organiza-
6	tion entered into on April 15, 1994 and the multilat-
7	eral trade agreements (as such term is defined in
8	section 2(4) of the Uruguay Round Agreements
9	Act).''; and
10	(D) by inserting after "GENERAL AGREE-
11	MENT ON TARIFFS AND TRADE" in the heading
12	"FOR THE WTO".
13	(5) Section 1107(a)(3) of the Omnibus Trade
14	and Competitiveness Act of 1988 (19 U.S.C.
15	2906(3)) is amended by striking "the General
16	Agreement on Tariffs and Trade" and inserting "the
17	GATT 1947 (as defined in section 2(1)(A) of the
18	Uruguay Round Agreements Act)".
19	(6) Section 1378(2) of the Omnibus Trade and
20	Competitiveness Act of 1988 (19 U.S.C. 3107(2)) is
21	amended by striking "the General Agreement on
22	Tariffs and Trade" and inserting "the WTO Agree-
23	ment and the multilateral trade agreements (as such
24	terms are defined in paragraphs (8) and (4), respec-

1	tively, of section 2 of the Uruguay Round Agree-
2	ments Act)".
3	(7) Section 1382 of the Omnibus Trade and
4	Competitiveness Act of 1988 (19 U.S.C. 3111) is
5	amended by striking "the General Agreement on
6	Tariffs and Trade" and inserting "the WTO Agree-
7	ment and the multilateral trade agreements (as such
8	terms are defined in paragraphs (9) and (4), respec-
9	tively, of section 2 of the Uruguay Round Agree-
10	ments Act)".
11	(8) Section 141(c)(1) of the Trade Act of 1974
12	(19 U.S.C. 2171(c)(1)) is amended—
13	(A) in subparagraph (C) by inserting ''all
14	negotiations on any matter considered under
15	the auspices of the World Trade Organization,"
16	after "including"; and
17	(B) in subparagraph (D) by inserting ",
18	including any matter considered under the aus-
19	pices of the World Trade Organization," after
20	"functions".
21	(9) Section 301(a)(2)(A) of the Trade Act of
22	1974 (19 U.S.C. 2411(a)(2)(A)) is amended by
23	striking "the Contracting Parties" and all that fol-
24	lows through "Parties," and inserting "the Dispute
25	Settlement Body (as defined in section 121(5) of the

- 1 Uruguay Round Agreements Act) has adopted a re-
- 2 port,".
- 3 (b) Effective Date.—The amendments made by
- 4 this section shall take effect on the date on which the
- 5 WTO Agreement enters into force with respect to the
- 6 United States.

7 TITLE VII—REVENUE

8 **PROVISIONS**

- 9 SEC. 700. AMENDMENT OF 1986 CODE AND TABLE OF CON-
- 10 TENTS.
- 11 (a) AMENDMENT OF 1986 CODE.—Except as other-
- 12 wise expressly provided, whenever in this title an amend-
- 13 ment or repeal is expressed in terms of an amendment
- 14 to, or repeal of, a section or other provision, the reference
- 15 shall be considered to be made to a section or other provi-
- 16 sion of the Internal Revenue Code of 1986.
- 17 (b) Table of Contents.—

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

Subtitle A—Withholding Tax Provisions

- Sec. 701. Withholding on distributions of Indian casino profits to tribal members
- Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

- Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
- Sec. 712. Time for payments and deposits of certain taxes.
- Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.

Subtitle C-Earned Income Tax Credit

- Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
- Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
- Sec. 723. Income of prisoners disregarded in determining earned income tax credit.

Subtitle D—Provisions Relating To Retirement Benefits

- Sec. 731. Treatment of excess pension assets used for retiree health benefits.
- Sec. 732. Rounding rules for cost-of-living adjustments.
- Sec. 733. Increase in inclusion of social security benefits paid to nonresidents.

Subtitle E—Other Provisions

- Sec. 741. Partnership distributions of marketable securities.
- Sec. 742. Taxpayer identification numbers required at birth.
- Sec. 743. Extension of Internal Revenue Service user fees.
- Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
- Sec. 745. Modification of authority to set terms and conditions for savings bonds.

Subtitle F-Pension Plan Funding and Premiums

Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 751. Minimum funding requirements.
- Sec. 752. Limitation on changes in current liability assumptions.
- Sec. 753. Anticipation of bargained benefit increases.
- Sec. 754. Modification of quarterly contribution requirement.
- Sec. 755. Exceptions to excise tax on nondeductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 761. Minimum funding requirements.
- Sec. 762. Limitation on changes in current liability assumptions.
- Sec. 763. Anticipation of bargained benefit increases.
- Sec. 764. Modification of quarterly contribution requirement.

SUBPART C—OTHER FUNDING PROVISIONS

- Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.
- Sec. 767. Single sum distributions.
- Sec. 768. Adjustments to lien for missed minimum funding contributions.
- Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 771. Reportable events.
- Sec. 772. Certain information required to be furnished to PBGC.
- Sec. 773. Enforcement of minimum funding requirements.
- Sec. 774. Computation of additional PBGC premium.
- Sec. 775. Disclosure to participants.

Sec. 776. Missing participants.

Sec. 777. Modification of maximum guarantee for disability benefits.

Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

Sec. 781. Effective dates.

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1	Subtitle A—Withholding Tax
2	Provisions
3	SEC. 701. WITHHOLDING ON DISTRIBUTIONS OF INDIAN CA-
4	SINO PROFITS TO TRIBAL MEMBERS.
5	(a) In General.—Section 3402 (relating to income
6	tax collected at source) is amended by inserting after sub-
7	section (q) the following new subsection:
8	"(r) Extension of Withholding to Certain
9	Taxable Payments of Indian Casino Profits.—
10	"(1) IN GENERAL.—Every person, including an
11	Indian tribe, making a payment to a member of an
12	Indian tribe from the net revenues of any class II
13	or class III gaming activity conducted or licensed by
14	such tribe shall deduct and withhold from such pay-
15	ment a tax in an amount equal to such payment's
16	proportionate share of the annualized tax.
17	"(2) Exception.—The tax imposed by para-
18	graph (1) shall not apply to any payment to the ex-

tent that the payment, when annualized, does not

exceed an amount equal to the sum of—

1	(A) the basic standard deduction (as de-
2	fined in section $63(c)$) for an individual to
3	whom section $63(c)(2)(C)$ applies, and
4	"(B) the exemption amount (as defined in
5	section 151(d)).
6	"(3) Annualized Tax.—For purposes of para-
7	graph (1), the term 'annualized tax' means, with re-
8	spect to any payment, the amount of tax which
9	would be imposed by section 1(c) (determined with-
10	out regard to any rate of tax in excess of 31 per-
11	cent) on an amount of taxable income equal to the
12	excess of—
13	"(A) the annualized amount of such pay-
14	ment, over
15	"(B) the amount determined under para-
16	graph (2).
17	"(4) Classes of gaming activities, etc.—
18	For purposes of this subsection, terms used in para-
19	graph (1) which are defined in section 4 of the In-
20	dian Gaming Regulatory Act (25 U.S.C. 2701 et
21	seq.), as in effect on the date of the enactment of
22	this subsection, shall have the respective meanings
23	given such terms by such section.

1	"(5) Annualization.—Payments shall	be
2	placed on an annualized basis under regulations p	re-
3	scribed by the Secretary.	

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- "(6) ALTERNATE WITHHOLDING PROCE-DURES.—At the election of an Indian tribe, the tax imposed by this subsection on any payment made by such tribe shall be determined in accordance with such tables or computational procedures as may be specified in regulations prescribed by the Secretary (in lieu of in accordance with paragraphs (2) and (3)).
- "(7) COORDINATION WITH OTHER SECTIONS.—
 For purposes of this chapter and so much of subtitle
 F as relates to this chapter, payments to any person
 which are subject to withholding under this subsection shall be treated as if they were wages paid
 by an employer to an employee."
- 18 (b) EFFECTIVE DATE.—The amendment made by 19 this section shall apply to payments made after December 20 31, 1994.

1	SEC. 702. VOLUNTARY WITHHOLDING ON CERTAIN FED-
2	ERAL PAYMENTS AND ON UNEMPLOYMENT
3	COMPENSATION.
4	(a) In General.—Subsection (p) of section 3402
5	(relating to voluntary withholding agreements) is amended
6	to read as follows:
7	"(p) Voluntary Withholding Agreements.—
8	"(1) CERTAIN FEDERAL PAYMENTS.—
9	"(A) IN GENERAL.—If, at the time a speci-
10	fied Federal payment is made to any person, a
11	request by such person is in effect that such
12	payment be subject to withholding under this
13	chapter, then for purposes of this chapter and
14	so much of subtitle F as relates to this chapter,
15	such payment shall be treated as if it were a
16	payment of wages by an employer to an em-
17	ployee.
18	"(B) Amount withheld.—The amount
19	to be deducted and withheld under this chapter
20	from any payment to which any request under
21	subparagraph (A) applies shall be an amount
22	equal to the percentage of such payment speci-
23	fied in such request. Such a request shall apply
24	to any payment only if the percentage specified
25	is 7, 15, 28, or 31 percent or such other per-

1	centage as is permitted under regulations pre-
2	scribed by the Secretary.
3	"(C) Specified federal payments.—
4	For purposes of this paragraph, the term 'spec-
5	ified Federal payment' means—
6	"(i) any payment of a social security
7	benefit (as defined in section 86(d)),
8	"(ii) any payment referred to in the
9	second sentence of section 451(d) which is
10	treated as insurance proceeds,
11	"(iii) any amount which is includible
12	in gross income under section 77(a), and
13	"(iv) any other payment made pursu-
14	ant to Federal law which is specified by
15	the Secretary for purposes of this para-
16	graph.
17	"(D) Requests for withholding.—
18	Rules similar to the rules that apply to annu-
19	ities under subsection (o)(4) shall apply to re-
20	quests under this paragraph and paragraph (2).
21	"(2) Voluntary withholding on unem-
22	PLOYMENT BENEFITS.—If, at the time a payment of
23	unemployment compensation (as defined in section
24	85(b)) is made to any person, a request by such per-
25	son is in effect that such payment be subject to

1	withholding under this chapter, then for purposes of
2	this chapter and so much of subtitle F as relates to
3	this chapter, such payment shall be treated as if it
4	were a payment of wages by an employer to an em-
5	ployee. The amount to be deducted and withheld
6	under this chapter from any payment to which any
7	request under this paragraph applies shall be an
8	amount equal to 15 percent of such payment.
9	"(3) Authority for other voluntary
10	WITHHOLDING.—The Secretary is authorized by reg-
11	ulations to provide for withholding—
12	"(A) from remuneration for services per-
13	formed by an employee for the employee's em-
14	ployer which (without regard to this paragraph)
15	does not constitute wages, and
16	"(B) from any other type of payment with
17	respect to which the Secretary finds that with-
18	holding would be appropriate under the provi-
19	sions of this chapter,
20	if the employer and employee, or the person making
21	and the person receiving such other type of payment,
22	agree to such withholding. Such agreement shall be
23	in such form and manner as the Secretary may by
24	regulations prescribe. For purposes of this chapter

(and so much of subtitle F as relates to this chap-

1	ter).	remuneration	or other	payments	with	respect	to

- which such agreement is made shall be treated as if
- they were wages paid by an employer to an employee
- 4 to the extent that such remuneration is paid or other
- 5 payments are made during the period for which the
- 6 agreement is in effect."
- 7 (b) STATE LAW MUST PERMIT VOLUNTARY WITH-
- 8 HOLDING OF FEDERAL INCOME TAX FROM UNEMPLOY-
- 9 MENT COMPENSATION.—Section 3304(a) is amended by
- 10 striking "and" at the end of paragraph (17), by redesig-
- 11 nating paragraph (18) as paragraph (19), and by insert-
- 12 ing after paragraph (17) the following new paragraph:
- 13 "(18) Federal individual income tax from un-
- employment compensation is to be deducted and
- withheld if an individual receiving such compensa-
- tion voluntarily requests such deduction and with-
- holding; and".
- 18 (c) WITHHOLDING FROM UNEMPLOYMENT COM-
- 19 PENSATION OF FEDERAL, STATE, AND LOCAL INCOME
- 20 Taxes Permitted.—
- 21 (1) Subparagraph (C) of section 3304(a)(4) is
- amended by inserting after "health insurance" the
- following: ", or the withholding of Federal, State, or
- local individual income tax,".

1	(2) Subsection (f) of section 3306 is amended
2	by redesignating paragraphs (3) and (4) as para-
3	graphs (4) and (5), respectively, and by inserting
4	after paragraph (2) the following new paragraph:

- "(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;".
- (3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax,".
- 19 (d) EFFECTIVE DATE.—The amendments made by 20 this section shall apply to payments made after December 21 31, 1996.

1	Subtitle B—Provisions Relating to
2	Estimated Taxes and Payments
3	and Deposits of Taxes
4	SEC. 711. TREATMENT OF SUBPART F AND SECTION 936 IN-
5	COME OF TAXPAYERS USING ANNUALIZED
6	METHOD FOR ESTIMATED TAX.
7	(a) Corporations.—Section 6655(e) (relating to
8	lower required installment where annualized income in-
9	stallment is less) is amended by adding at the end the
10	following new paragraph:
11	"(4) Treatment of subpart f and section
12	936 INCOME.—
13	"(A) IN GENERAL.—Any amounts required
14	to be included in gross income under section
15	936(h) or 951(a) (and credits properly allocable
16	thereto) shall be taken into account in comput-
17	ing any annualized income installment under
18	paragraph (2) in a manner similar to the man-
19	ner under which partnership income inclusions
20	(and credits properly allocable thereto) are
21	taken into account.
22	"(B) Prior year safe harbor.—
23	"(i) In general.—If a taxpayer
24	elects to have this subparagraph apply for
25	any taxable year—

1	"(I) subparagraph (A) shall not
2	apply, and
3	"(II) for purposes of computing
4	any annualized income installment for
5	such taxable year, the taxpayer shall
6	be treated as having received ratably
7	during such taxable year items of in-
8	come and credit described in subpara-
9	graph (A) in an amount equal to 115
10	percent of the amount of such items
11	shown on the return of the taxpayer
12	for the preceding taxable year (the
13	second preceding taxable year in the
14	case of the first and second required
15	installments for such taxable year).
16	"(ii) Special rule for
17	NONCONTROLLING SHAREHOLDER.—
18	"(I) IN GENERAL.—If a taxpayer
19	making the election under clause (i) is
20	a noncontrolling shareholder of a cor-
21	poration, clause (i)(II) shall be ap-
22	plied with respect to items of such
23	corporation by substituting '100 per-
24	cent' for '115 percent'.

1 "(II) Noncontrolling share
2 HOLDER.—For purposes of subclause
3 (I), the term 'noncontrolling share-
4 holder' means, with respect to any
5 corporation, a shareholder which (as
of the beginning of the taxable year
for which the installment is being
8 made) does not own (within the mean-
9 ing of section 958(a)), and is not
treated as owning (within the meaning
of section 958(b)), more than 50 per-
cent (by vote or value) of the stock ir
the corporation."
(b) Individuals.—Section 6654(d)(2) (relating to
15 lower required installment where annualized income in-
16 stallment is less) is amended by adding at the end the
17 following new subparagraph:
18 "(D) Treatment of subpart f and
19 SECTION 936 INCOME.—
20 "(i) IN GENERAL.—Any amounts re-
quired to be included in gross income
under section 936(h) or 951(a) (and cred-
its properly allocable thereto) shall be
taken into account in computing any
25 annualized income installment under sub-

1	paragraph (B) in a manner similar to the
2	manner under which partnership income
3	inclusions (and credits properly allocable
4	thereto) are taken into account.
5	"(ii) Prior year safe harbor.—It
6	a taxpayer elects to have this clause apply
7	to any taxable year—
8	"(I) clause (i) shall not apply
9	and
10	"(II) for purposes of computing
11	any annualized income installment for
12	such taxable year, the taxpayer shall
13	be treated as having received ratably
14	during such taxable year items of in-
15	come and credit described in clause (i)
16	in an amount equal to the amount of
17	such items shown on the return of the
18	taxpayer for the preceding taxable
19	year (the second preceding taxable
20	year in the case of the first and sec-
21	ond required installments for such
22	taxable year).''
23	(c) EFFECTIVE DATE.—The amendments made by
24	this section shall apply for purposes of determining under-

- 1 payments of estimated tax for taxable years beginning
- 2 after December 31, 1994.
- 3 SEC. 712. TIME FOR PAYMENTS AND DEPOSITS OF CERTAIN
- 4 TAXES.
- 5 (a) Deposits Required for Semimonthly Peri-
- 6 ODS.—Subsection (f) of section 6302 (relating to collec-
- 7 tion authority) is amended to read as follows:
- 8 "(f) Time for Deposit of Certain Excise
- 9 Taxes.—
- 10 "(1) GENERAL RULE.—Except as otherwise
- provided in this subsection and subsection (e), if any
- person is required under regulations to make depos-
- its of taxes under subtitle D with respect to semi-
- monthly periods, such person shall make deposits of
- such taxes for the period beginning on September 16
- and ending on September 26 not later than Septem-
- ber 29. In the case of taxes imposed by sections
- 4261 and 4271, this paragraph shall not apply to
- periods before January 1, 1997.
- 20 "(2) Taxes on ozone depleting chemi-
- 21 CALS.—If any person is required under regulations
- to make deposits of taxes under subchapter D of
- chapter 38 with respect to semimonthly periods, in
- lieu of paragraph (1), such person shall make depos-
- 25 its of such taxes for—

1	"(A) the second semimonthly period in Au-
2	gust, and
3	"(B) the period beginning on September 1
4	and ending on September 11,
5	not later than September 29.
6	"(3) Taxpayers not required to use elec-
7	TRONIC FUNDS TRANSFER.—In the case of deposits
8	not required to be made by electronic funds transfer,
9	paragraphs (1) and (2) shall be applied by substitut-
10	ing 'September 25' for 'September 26', 'September
11	10' for 'September 11', and 'September 28' for 'Sep-
12	tember 29'.
13	"(4) Special rule where due date on sat-
14	URDAY OR SUNDAY.—If, but for this paragraph, the
15	due date under paragraph (1), (2), or (3) would fall
16	on a Saturday or Sunday, such due date shall be
17	deemed to be—
18	"(A) in the case of Saturday, the preceding
19	day, and
20	"(B) in the case of Sunday, the following
21	day.''
22	(b) Taxes on Distilled Spirits, Wines, and
23	Beer.—
24	(1) Subsection (d) of section 5061 is amended
25	by redesignating paragraph (4) as paragraph (5)

1	and by inserting after paragraph (3) the following
2	new paragraph:
3	"(4) Special rule for tax due in septem-
4	BER.—
5	"(A) In general.—Notwithstanding the
6	preceding provisions of this subsection, the
7	taxes on distilled spirits, wines, and beer for the
8	period beginning on September 16 and ending
9	on September 26 shall be paid not later than
10	September 29.
11	"(B) Safe harbor.—The requirement of
12	subparagraph (A) shall be treated as met if the
13	amount paid not later than September 29 is not
14	less than $^{11}/_{15}$ of the taxes on distilled spirits,
15	wines, and beer for the period beginning on
16	September 1 and ending on September 15.
17	"(C) Taxpayers not required to use
18	ELECTRONIC FUNDS TRANSFER.—In the case of
19	payments not required to be made by electronic
20	funds transfer, subparagraphs (A) and (B)
21	shall be applied by substituting 'September 25'
22	for 'September 26', 'September 28' for 'Sep-
23	tember 29', and '2/3' for '11/15'.''
24	(2) Section 5061(d)(5), as redesignated by
25	paragraph (1), is amended—

1	(A) by inserting "(or the immediately fol-
2	lowing day where the due date described in
3	paragraph (4) falls on a Sunday)" before the
4	period at the end, and
5	(B) by striking "14TH DAY" in the heading
6	and inserting "DUE DATE".
7	(c) Tobacco Products and Cigarette Papers
8	and Tubes.—
9	(1) Paragraph (2) of section 5703(b) is amend-
10	ed by redesignating subparagraph (D) as subpara-
11	graph (E) and by inserting after subparagraph (C)
12	the following new subparagraph:
13	"(D) Special rule for tax due in sep-
14	TEMBER.—
15	"(i) In general.—Notwithstanding
16	the preceding provisions of this paragraph,
17	the taxes on tobacco products and cigarette
18	papers and tubes for the period beginning
19	on September 16 and ending on September
20	26 shall be paid not later than September
21	29.
22	"(ii) Safe harbor.—The require-
23	ment of clause (i) shall be treated as met
24	if the amount paid not later than Septem-
25	ber 29 is not less than 11/15 of the taxes

1	on tobacco products and cigarette papers
2	and tubes for the period beginning on Sep-
3	tember 1 and ending on September 15.
4	"(iii) Taxpayers not required to
5	use electronic funds transfer.—In
6	the case of payments not required to be
7	made by electronic funds transfer, clauses
8	(i) and (ii) shall be applied by substituting
9	'September 25' for 'September 26', 'Sep-
10	tember 28' for 'September 29', and '2/3' for
11	'¹¹⁄₁₅'.''
12	(2) Section 5703(b)(2)(E), as redesignated by
13	paragraph (1), is amended—
14	(A) by inserting "(or the immediately fol-
15	lowing day where the due date described in sub-
16	paragraph (D) falls on a Sunday)" before the
17	period at the end, and
18	(B) by striking "14TH DAY" in the heading
19	and inserting "DUE DATE".
20	(d) Communication Services and Airline Tick-
21	ETS.—Subsection (e) of section 6302 is amended to read
22	as follows:
23	"(e) Time for Deposit of Taxes on Communica-
24	TIONS SERVICES AND AIRLINE TICKETS.—

1	(1) IN GENERAL.—Except as provided in para-
2	graph (2), if, under regulations prescribed by the
3	Secretary, a person is required to make deposits of
4	any tax imposed by section 4251 or subsection (a)
5	or (b) of section 4261 with respect to amounts con-
6	sidered collected by such person during any semi-
7	monthly period, such deposit shall be made not later
8	than the 3rd day (not including Saturdays, Sundays,
9	or legal holidays) after the close of the 1st week of
10	the 2nd semimonthly period following the period to
11	which such amounts relate.
12	"(2) Special rule for tax due in septem-
13	BER.—
14	"(A) Amounts considered col-
15	LECTED.—In the case of a person required to
16	make deposits of the tax imposed by-
17	"(i) section 4251, or
18	"(ii) effective on January 1, 1997,
19	section 4261 or 4271,
20	with respect to amounts considered collected by
21	such person during any semimonthly period, the
22	amount of such tax included in bills rendered or
23	tickets sold during the period beginning on Sep-
24	tember 1 and ending on September 11 shall be
25	deposited not later than September 29.

1	"(B) Special rule where september
2	29 IS ON SATURDAY OR SUNDAY.—If September
3	29 falls on a Saturday or Sunday, the due date
4	under subparagraph (A) shall be—
5	"(i) in the case of Saturday, the pre-
6	ceding day, and
7	"(ii) in the case of Sunday, the follow-
8	ing day.
9	"(C) Taxpayers not required to use
10	ELECTRONIC FUNDS TRANSFER.—In the case of
11	deposits not required to be made by electronic
12	funds transfer, subparagraphs (A) and (B)
13	shall be applied by substituting 'September 10'
14	for 'September 11' and 'September 28' for
15	'September 29'.''
16	(e) Effective Date.—The amendments made by
17	this section shall take effect on January 1, 1995.
18	SEC. 713. REDUCTION IN RATE OF INTEREST PAID ON CER-
19	TAIN CORPORATE OVERPAYMENTS.
20	(a) In General.—Paragraph (1) of section 6621(a)
21	(defining overpayment rate) is amended by adding at the
22	end the following new flush sentence:
23	"To the extent that an overpayment of tax by a cor-
24	poration for any taxable period (as defined in sub-
25	section (c)(3)) exceeds \$10,000, subparagraph (B)

1	shall be applied by substituting '0.5 percentage
2	point' for '2 percentage points'."
3	(b) Effective Date.—The amendment made by
4	this section shall apply for purposes of determining inter-
5	est for periods after December 31, 1994.
6	Subtitle C—Earned Income Tax
7	Credit
8	SEC. 721. EXTENSION OF EARNED INCOME TAX CREDIT TO
9	MILITARY PERSONNEL STATIONED OUTSIDE
10	THE UNITED STATES.
11	(a) IN GENERAL.—Subsection (c) of section 32 (re-
12	lating to earned income credit) is amended by adding at
13	the end the following new paragraph:
14	"(4) Treatment of military personnel
15	STATIONED OUTSIDE THE UNITED STATES.—For
16	purposes of paragraphs $(1)(A)(ii)(I)$ and $(3)(E)$, the
17	principal place of abode of a member of the Armed
18	Forces of the United States shall be treated as in
19	the United States during any period during which
20	such member is stationed outside the United States
21	while serving on extended active duty (as defined in
22	section $1034(h)(3)$) with the Armed Forces of the
23	United States."
24	(b) Reporting of Military Earned Income.—
25	Subsection (a) of section 6051 (relating to receipts for em-

- 1 ployees) is amended by striking "and" at the end of para-
- 2 graph (8), by striking the period at the end of paragraph
- 3 (9) and by inserting ", and", and by inserting after para-
- 4 graph (9) the following new paragraph:
- 5 "(10) in the case of an employee who is a mem-
- 6 ber of the Armed Forces of the United States, such
- 7 employee's earned income as determined for pur-
- 8 poses of section 32 (relating to earned income cred-
- 9 it)."
- 10 (c) Advance Payment of Earned Income Credit
- 11 Based on Military Earned Income.—Paragraph (1)
- 12 of section 3507(c) (defining earned income advance
- 13 amount) is amended by adding at the end the following
- 14 new sentence:
- 15 "In the case of an employee who is a member of the
- 16 Armed Forces of the United States, the earned in-
- come advance amount shall be determined by taking
- into account such employee's earned income as de-
- termined for purposes of section 32."
- 20 (d) Effective Dates.—
- 21 (1) Subsection (a).—The amendment made
- by subsection (a) shall apply to taxable years begin-
- 23 ning after December 31, 1994.

1	(2) Subsections (b) and (c).—The amend-
2	ments made by subsections (b) and (c) shall apply
3	to remuneration paid after December 31, 1994.
4	SEC. 722. CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR
5	EARNED INCOME TAX CREDIT.
6	(a) IN GENERAL.—Paragraph (1) of section 32(c)
7	(defining eligible individual) is amended by adding at the
8	end the following new subparagraph:
9	"(E) Limitation on eligibility of non-
10	RESIDENT ALIENS.—The term 'eligible individ-
11	ual' shall not include any individual who is a
12	nonresident alien individual for any portion of
13	the taxable year unless such individual is treat-
14	ed for such taxable year as a resident of the
15	United States for purposes of this chapter by
16	reason of an election under subsection (g) or
17	(h) of section 6013."
18	(b) Effective Date.—The amendment made by
19	subsection (a) shall apply to taxable years beginning after
20	December 31, 1994.
21	SEC. 723. INCOME OF PRISONERS DISREGARDED IN DETER-
22	MINING EARNED INCOME TAX CREDIT.
23	(a) In General.—Subparagraph (B) of section
24	32(c)(2) (defining earned income) is amended by striking
25	"and" at the end of clause (ii), by striking the period at

1	the end of clause (iii) and inserting ", and", and by adding
2	at the end the following new clause:
3	"(iv) no amount received for services
4	provided by an individual while the individ-
5	ual is an inmate at a penal institution shall
6	be taken into account."
7	(b) EFFECTIVE DATE.—The amendment made by
8	subsection (a) shall apply to taxable years beginning after
9	December 31, 1993.
10	Subtitle D—Provisions Relating To
11	Retirement Benefits
12	SEC. 731. TREATMENT OF EXCESS PENSION ASSETS USED
13	FOR RETIREE HEALTH BENEFITS.
14	(a) 5-YEAR EXTENSION.—Paragraph (5) of section
15	420(b) (defining qualified transfer) is amended by striking
16	"1995" and inserting "2000".
17	(b) MINIMUM BENEFIT REQUIREMENTS.—Para-
18	graph (3) of section 420(c) (relating to requirements of
19	plans transferring assets) is amended to read as follows:
20	"(3) Maintenance of benefit require-
21	MENTS.—
22	"(A) In general.—The requirements of
23	this paragraph are met if each group health
24	plan or arrangement under which applicable
25	health benefits are provided provides that the

applicable health benefits provided by the employer during each taxable year during the benefit maintenance period are substantially the same as the applicable health benefits provided by the employer during the taxable year immediately preceding the taxable year of the qualified transfer.

"(B) ELECTION TO APPLY SEPARATELY.—
An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(C) BENEFIT MAINTENANCE PERIOD.—
For purposes of this paragraph, the term 'benefit maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more benefit maintenance periods, this paragraph shall be applied by taking into account the highest level of benefits required to be provided under subparagraph (A) for such taxable year."

(c) Conforming Amendments.—

1	(1) Clause (iii) of section 420(b)(1)(C) is
2	amended by striking "cost" and inserting "benefits".
3	(2) Subparagraph (B) of section 420(e)(1) is
4	amended to read as follows:
5	"(B) REDUCTIONS FOR AMOUNTS PRE-
6	VIOUSLY SET ASIDE.—The amount determined
7	under subparagraph (A) shall be reduced by the
8	amount which bears the same ratio to such
9	amount as—
10	"(i) the value (as of the close of the
11	plan year preceding the year of the quali-
12	fied transfer) of the assets in all health
13	benefits accounts or welfare benefit funds
14	(as defined in section 419(e)(1)) set aside
15	to pay for the qualified current retiree
16	health liability, bears to
17	"(ii) the present value of the qualified
18	current retiree health liabilities for all plan
19	years (determined without regard to this
20	subparagraph).''
21	(3) Subparagraph (D) of section 420(e)(1) is
22	amended by striking "or in calculating applicable
23	employer cost under subsection (c)(3)(B)" and in-
24	serting "and shall not be subject to the minimum
25	benefit requirements of subsection $(c)(3)$ "

1	(4)(A) Section 101(e)(3) of the Employee Re-
2	tirement Income Security Act of 1974 (29 U.S.C.
3	1021(e)(3)) is amended by striking "1991" and in-
4	serting "1995".
5	(B) Section 403(c)(1) of such Act (29 U.S.C.
6	1103(c)(1)) is amended by striking "1991" and in-
7	serting "1995".
8	(C) Paragraph (13) of section 408(b) of such
9	Act (29 U.S.C. 1108(b)(13)) is amended—
10	(i) by striking ''1996'' and inserting
11	"2001", and
12	(ii) by striking ''1991'' and inserting
13	"1995".
14	(d) Effective Dates.—
15	(1) Extension.—The amendments made by
16	subsections (a) and (c)(3) shall apply to taxable
17	years beginning after December 31, 1995.
18	(2) Benefits.—The amendments made by
19	subsections (b) and (c)(1) and (2) shall apply to
20	qualified transfers occurring after the date of the
21	enactment of this Act.

1	SEC. 732. ROUNDING RULES FOR COST-OF-LIVING ADJUST-
2	MENTS.
3	(a) Cost-of-Living Adjustment for Compensa-
4	TION LIMIT.—Section 401(a)(17)(B) is amended to read
5	as follows:
6	"(B) Cost-of-living adjustment.—The
7	Secretary shall adjust annually the \$150,000
8	amount in subparagraph (A) for increases in
9	the cost-of-living at the same time and in the
10	same manner as adjustments under section
11	415(d); except that the base period shall be the
12	calendar quarter beginning October 1, 1993,
13	and any increase which is not a multiple of
14	\$10,000 shall be rounded to the next lowest
15	multiple of \$10,000."
16	(b) Cost-of-Living Adjustment for Maximum
17	Defined Benefit Amount and Maximum Annual Ad-
18	DITION.—
19	(1) IN GENERAL.—Section 415(d) is amended
20	to read as follows:
21	"(d) Cost-of-Living Adjustments.—
22	"(1) IN GENERAL.—The Secretary shall adjust
23	annually—
24	"(A) the \$90,000 amount in subsection
25	(b)(1)(A),

1	"(B) in the case of a participant who sepa-
2	rated from service, the amount taken into ac-
3	count under subsection (b)(1)(B), and
4	"(C) the \$30,000 amount in subsection
5	(c)(1)(A),
6	for increases in the cost-of-living in accordance with
7	regulations prescribed by the Secretary.
8	"(2) Method.—The regulations prescribed
9	under paragraph (1) shall provide for—
10	"(A) an adjustment with respect to any
11	calendar year based on the increase in the ap-
12	plicable index for the calendar quarter ending
13	September 30 of the preceding calendar year
14	over such index for the base period, and
15	"(B) adjustment procedures which are
16	similar to the procedures used to adjust benefit
17	amounts under section 215(i)(2)(A) of the So-
18	cial Security Act.
19	"(3) Base Period.—For purposes of para-
20	graph (2)—
21	"(A) \$90,000 AMOUNT.—The base period
22	taken into account for purposes of paragraph
23	(1)(A) is the calendar quarter beginning Octo-
24	ber 1, 1986.

1	"(B) Separations after december 31,
2	1994.—The base period taken into account for
3	purposes of paragraph (1)(B) with respect to
4	individuals separating from service with the em-
5	ployer after December 31, 1994, is the calendar
6	quarter beginning July 1 of the calendar year
7	preceding the calendar year in which such sepa-
8	ration occurs.
9	"(C) SEPARATIONS BEFORE JANUARY 1
10	1995.—The base period taken into account for
11	purposes of paragraph (1)(B) with respect to
12	individuals separating from service with the em-
13	ployer before January 1, 1995, is the calendar
14	quarter beginning October 1 of the calendar
15	year preceding the calendar year in which such
16	separation occurs.
17	"(D) \$30,000 AMOUNT.—The base period
18	taken into account for purposes of paragraph
19	(1)(C) is the calendar quarter beginning Octo-
20	ber 1, 1993.
21	"(4) ROUNDING.—Any increase under subpara-
22	graph (A) or (C) of paragraph (1) which is not a
23	multiple of \$5,000 shall be rounded to the next low-
24	est multiple of \$5,000."

1	(2) Conforming Amendment.—Section
2	415(c)(1)(A) is amended by striking "(or, if greater,
3	$\frac{1}{4}$ of the dollar limitation in effect under subsection
4	(b)(1)(A))".
5	(c) Cost-of-Living Adjustment for Maximum
6	SALARY DEFERRAL.—Section 402(g)(5) is amended by
7	inserting before the period "; except that any increase
8	under this paragraph which is not a multiple of \$500 shall
9	be rounded to the next lowest multiple of \$500".
10	(d) Cost-of-Living Adjustment for Eligibility
11	FOR SIMPLIFIED EMPLOYEE PENSIONS.—Section
12	408(k)(8) is amended by inserting before the period "; ex-
13	cept that any increase in the \$300 amount which is not
14	a multiple of \$50 shall be rounded to the next lowest mul-
15	tiple of \$50''.
16	(e) Effective Dates.—
17	(1) In general.—Except as provided in para-
18	graph (2), the amendments made by this section
19	shall apply to years beginning after December 31,
20	1994.
21	(2) Rounding not to result in de-
22	CREASES.—The amendments made by this section
23	providing for the rounding of indexed amounts shall
24	not apply to any year to the extent the rounding
25	would require the indexed amount to be reduced

1	below the amount in effect for years beginning in
2	1994.
3	SEC. 733. INCREASE IN INCLUSION OF SOCIAL SECURITY
4	BENEFITS PAID TO NONRESIDENTS.
5	(a) In General.—Subparagraph (A) of section
6	871(a)(3) (relating to taxation of Social Security benefits)
7	is amended by striking "one-half" and inserting "85 per-
8	cent".
9	(b) Effective Date.—The amendment made by
10	subsection (a) shall apply to benefits paid after December
11	31, 1994, in taxable years ending after such date.
12	Subtitle E—Other Provisions
1 4	
13	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE
13	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE
13 14 15	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES.
13 14 15 16	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) IN GENERAL.—Section 731 (relating to extent of
13 14 15 16	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by
13 14 15 16	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by in-
113 114 115 116 117	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) In General.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:
113 114 115 116 117 118 119	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: "(c) TREATMENT OF MARKETABLE SECURITIES.—
13 14 15 16 17 18 19 20	SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES. (a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: "(c) Treatment of Marketable Securities.— "(1) In General.—For purposes of subsection

1	"(B) such securities shall be taken into ac-
2	count at their fair market value as of the date
3	of the distribution.
4	"(2) Marketable securities.—For purposes
5	of this subsection:
6	"(A) IN GENERAL.—The term 'marketable
7	securities' means financial instruments and for-
8	eign currencies which are, as of the date of the
9	distribution, actively traded (within the mean-
10	ing of section $1092(d)(1)$.
11	"(B) Other Property.—Such term in-
12	cludes—
13	"(i) any interest in—
14	"(I) a common trust fund, or
15	''(II) a regulated investment
16	company which is offering for sale or
17	has outstanding any redeemable secu-
18	rity (as defined in section 2(a)(32) of
19	the Investment Company Act of 1940)
20	of which it is the issuer,
21	"(ii) any financial instrument which,
22	pursuant to its terms or any other ar-
23	rangement, is readily convertible into, or
24	exchangeable for, money or marketable se-
25	curities,

1	"(iii) any financial instrument the
2	value of which is determined substantially
3	by reference to marketable securities,
4	"(iv) except to the extent provided in
5	regulations prescribed by the Secretary,
6	any interest in a precious metal which, as
7	of the date of the distribution, is actively
8	traded (within the meaning of section
9	1092(d)(1)) unless such metal was pro-
10	duced, used, or held in the active conduct
11	of a trade or business by the partnership,
12	"(v) except as otherwise provided in
13	regulations prescribed by the Secretary, in-
14	terests in any entity if substantially all of
15	the assets of such entity consist (directly
16	or indirectly) of marketable securities,
17	money, or both, and
18	"(vi) to the extent provided in regula-
19	tions prescribed by the Secretary, any in-
20	terest in an entity not described in clause
21	(v) but only to the extent of the value of
22	such interest which is attributable to mar-
23	ketable securities, money, or both.
24	"(C) Financial instrument.—The term
25	'financial instrument' includes stocks and other

1	equity interests, evidences of indebtedness, op-
2	tions, forward or futures contracts, notional
3	principal contracts, and derivatives.
4	"(3) Exceptions.—
5	"(A) IN GENERAL.—Paragraph (1) shall
6	not apply to the distribution from a partnership
7	of a marketable security to a partner if—
8	"(i) the security was contributed to
9	the partnership by such partner, except to
10	the extent that the value of the distributed
11	security is attributable to marketable secu-
12	rities or money contributed (directly or in-
13	directly) to the entity to which the distrib-
14	uted security relates,
15	"(ii) to the extent provided in regula-
16	tions prescribed by the Secretary, the prop-
17	erty was not a marketable security when
18	acquired by such partnership, or
19	"(iii) such partnership is an invest-
20	ment partnership and such partner is an
21	eligible partner thereof.
22	"(B) Limitation on gain recognized.—
23	In the case of a distribution of marketable secu-
24	rities to a partner, the amount taken into ac-

1	count under paragraph (1) shall be reduced
2	(but not below zero) by the excess (if any) of—
3	"(i) such partner's distributive share
4	of the net gain which would be recognized
5	if all of the marketable securities of the
6	same class and issuer as the distributed se-
7	curities held by the partnership were sold
8	(immediately before the transaction to
9	which the distribution relates) by the part-
10	nership for fair market value, over
11	''(ii) such partner's distributive share
12	of the net gain which is attributable to the
13	marketable securities of the same class and
14	issuer as the distributed securities held by
15	the partnership immediately after the
16	transaction, determined by using the same
17	fair market value as used under clause (i).
18	Under regulations prescribed by the Secretary,
19	all marketable securities held by the partner-
20	ship may be treated as marketable securities of
21	the same class and issuer as the distributed se-
22	curities.
23	"(C) Definitions relating to invest-
24	MENT PARTNERSHIPS.—For purposes of sub-
25	paragraph (A)(iii):

1	"(i) Investment partnership.—
2	The term 'investment partnership' means
3	any partnership which has never been en-
4	gaged in a trade or business and substan-
5	tially all of the assets (by value) of which
6	have always consisted of—
7	"(I) money,
8	"(II) stock in a corporation,
9	"(III) notes, bonds, debentures,
10	or other evidences of indebtedness,
11	"(IV) interest rate, currency, or
12	equity notional principal contracts,
13	"(V) foreign currencies,
14	"(VI) interests in or derivative fi-
15	nancial instruments (including op-
16	tions, forward or futures contracts,
17	short positions, and similar financial
18	instruments) in any asset described in
19	any other subclause of this clause or
20	in any commodity traded on or sub-
21	ject to the rules of a board of trade or
22	commodity exchange,
23	"(VII) other assets specified in
24	regulations prescribed by the Sec-
25	retary, or

1	"(VIII) any combination of the
2	foregoing.
3	"(ii) Exception for certain ac-
4	TIVITIES.—A partnership shall not be
5	treated as engaged in a trade or business
6	by reason of—
7	"(I) any activity undertaken as
8	an investor, trader, or dealer in any
9	asset described in clause (i), or
10	"(II) any other activity specified
11	in regulations prescribed by the Sec-
12	retary.
13	"(iii) Eligible partner.—
14	"(I) IN GENERAL.—The term 'el-
15	igible partner' means any partner
16	who, before the date of the distribu-
17	tion, did not contribute to the part-
18	nership any property other than as-
19	sets described in clause (i).
20	"(II) Exception for certain
21	NONRECOGNITION TRANSACTIONS.—
22	The term 'eligible partner' shall not
23	include the transferor or transferee in
24	a nonrecognition transaction involving
25	a transfer of any portion of an inter-

1	est in a partnership with respect to
2	which the transferor was not an eligi-
3	ble partner.
4	"(iv) Look-thru of partnership
5	TIERS.—Except as otherwise provided in
6	regulations prescribed by the Secretary—
7	"(I) a partnership shall be treat-
8	ed as engaged in any trade or busi-
9	ness engaged in by, and as holding
10	(instead of a partnership interest) a
11	proportionate share of the assets of,
12	any other partnership in which the
13	partnership holds a partnership inter-
14	est, and
15	"(II) a partner who contributes
16	to a partnership an interest in an-
17	other partnership shall be treated as
18	contributing a proportionate share of
19	the assets of the other partnership.
20	If the preceding sentence does not apply
21	under such regulations with respect to any
22	interest held by a partnership in another
23	partnership, the interest in such other
24	partnership shall be treated as if it were
25	specified in a subclause of clause (i).

1	"(4) Basis of securities distributed.—
2	"(A) IN GENERAL.—The basis of market-
3	able securities with respect to which gain is rec-
4	ognized by reason of this subsection shall be—
5	"(i) their basis determined under sec-
6	tion 732, increased by
7	"(ii) the amount of such gain.
8	"(B) Allocation of basis increase.—
9	Any increase in basis attributable to the gain
10	described in subparagraph (A)(ii) shall be allo-
11	cated to marketable securities in proportion to
12	their respective amounts of unrealized apprecia-
13	tion before such increase.
14	"(5) Subsection disregarded in determin-
15	ING BASIS OF PARTNER'S INTEREST IN PARTNER-
16	SHIP AND OF BASIS OF PARTNERSHIP PROPERTY.—
17	Sections 733 and 734 shall be applied as if no gain
18	were recognized, and no adjustment were made to
19	the basis of property, under this subsection.
20	"(6) Character of gain recognized.—In
21	the case of a distribution of a marketable security
22	which is an unrealized receivable (as defined in sec-
23	tion 751(c)) or an inventory item (as defined in sec-
24	tion 751(d)(2)), any gain recognized under this sub-
25	section shall be treated as ordinary income to the ex-

1	tent of any increase in the basis of such security at-
2	tributable to the gain described in paragraph
3	(4)(A)(ii).
4	"(7) REGULATIONS.—The Secretary shall pre-
5	scribe such regulations as may be necessary or ap-
6	propriate to carry out the purposes of this sub-
7	section, including regulations to prevent the avoid-
8	ance of such purposes."
9	(b) Conforming Amendments.—
10	(1) The last sentence of section $737(c)(1)$ is
11	amended to read as follows: "For purposes of deter-
12	mining the basis of the distributed property (other
13	than money), such increase shall be treated as occur-
14	ring immediately before the distribution."
15	(2) Section 737 is amended by adding at the
16	end the following new subsection:
17	"(e) Marketable Securities Treated as
18	Money.—
	"For treatment of marketable securities as money for purposes of this section, see section 731(c)."
19	(c) Effective Date.—
20	(1) In GENERAL.—Except as otherwise pro-
21	vided in this subsection, the amendments made by
22	this section shall apply to distributions after the
23	date of the enactment of this Act.

1	(2) Certain distributions before january
2	1, 1995.—The amendments made by this section
3	shall not apply to any marketable security distrib-
4	uted before January 1, 1995, by the partnership
5	which held such security on July 27, 1994.
6	(3) Distributions in Liquidation of Part-
7	NER'S INTEREST.—The amendments made by this
8	section shall not apply to the distribution of a mar-
9	ketable security in liquidation of a partner's interest
10	in a partnership if—
11	(A) such liquidation is pursuant to a writ-
12	ten contract which was binding on July 15,
13	1994, and at all times thereafter before the dis-
14	tribution, and
15	(B) such contract provides for the pur-
16	chase of such interest not later than a date cer-
17	tain for—
18	(i) a fixed value of marketable securi-
19	ties that are specified in the contract, or
20	(ii) other property.
21	The preceding sentence shall not apply if the partner
22	has the right to elect that such distribution be made
23	other than in marketable securities.
24	(4) Distributions in complete liquidation
25	OF PUBLICLY TRADED PARTNERSHIPS.—

1	(A) IN GENERAL.—The amendments made
2	by this section shall not apply to the distribu-
3	tion of a marketable security in a qualified
4	partnership liquidation if—
5	(i) the marketable securities were re-
6	ceived by the partnership in a nonrecogni-
7	tion transaction in exchange for substan-
8	tially all of the assets of the partnership,
9	(ii) the marketable securities are dis-
10	tributed by the partnership within 90 days
11	after their receipt by the partnership, and
12	(iii) the partnership is liquidated be-
13	fore the beginning of the 1st taxable year
14	of the partnership beginning after Decem-
15	ber 31, 1997.
16	(B) Qualified partnership liquida-
17	TION.—For purposes of subparagraph (A), the
18	term ''qualified partnership liquidation''
19	means—
20	(i) a complete liquidation of a publicly
21	traded partnership (as defined in section
22	7704(b) of the Internal Revenue Code of
23	1986) which is an existing partnership (as
24	defined in section 10211(c)(2) of the Reve-
25	nue Act of 1987), and

1	(ii) a complete liquidation of a part-
2	nership which is related to a partnership
3	described in clause (i) if such liquidation is
4	related to a complete liquidation of the
5	partnership described in clause (i).
6	(5) Marketable securities.—For purposes
7	of this subsection, the term "marketable securities"
8	has the meaning given such term by section 731(c)
9	of the Internal Revenue Code of 1986, as added by
10	this section.
11	SEC. 742. TAXPAYER IDENTIFICATION NUMBERS REQUIRED
12	AT BIRTH.
13	(a) Earned Income Credit.—Clause (i) of section
14	32(c)(3)(D) is amended to read as follows:
15	"(i) In general.—The requirements
16	of this subparagraph are met if the tax-
17	payer includes the name, age, and TIN of
18	each qualifying child (without regard to
19	this subparagraph) on the return of tax for
20	the taxable year."
21	(b) Dependency Exemption.—Subsection (e) of
22	section 6109 is amended to read as follows:
23	"(e) Furnishing Number for Dependents.—Any
24	taxpayer who claims an exemption under section 151 for
25	any dependent on a return for any taxable year shall in-

1	clude on such return the identifying number (for purposes
2	of this title) of such dependent."
3	(c) Effective Date.—
4	(1) In general.—Except as provided in para-
5	graph (2), the amendments made by this section
6	shall apply to returns for taxable years beginning
7	after December 31, 1994.
8	(2) Exception.—The amendments made by
9	this section shall not apply to—
10	(A) returns for taxable years beginning in
11	1995 with respect to individuals who are born
12	after October 31, 1995, and
13	(B) returns for taxable years beginning in
14	1996 with respect to individuals who are born
15	after November 30, 1996.
16	SEC. 743. EXTENSION OF INTERNAL REVENUE SERVICE
17	USER FEES.
18	Subsection (c) of section 10511 of the Revenue Act
19	of 1987 (relating to fees for requests for ruling, deter-
20	mination, and similar letters) is amended by striking "Oc-
21	toher 1 1995" and inserting "October 1 2000"

1	SEC. 744. MODIFICATION OF SUBSTANTIAL UNDERSTATE
2	MENT PENALTY FOR CORPORATIONS PAR
3	TICIPATING IN TAX SHELTERS.
4	(a) IN GENERAL.—Subparagraph (C) of section
5	6662(d)(2) (relating to special rules in cases involving tax
6	shelters) is amended by redesignating clause (ii) as clause
7	(iii) and by inserting after clause (i) the following new
8	clause:
9	"(ii) Subparagraph (b) not to
10	APPLY TO CORPORATIONS.—Subparagraph
11	(B) shall not apply to any item of a cor-
12	poration which is attributable to a tax
13	shelter.''
14	(b) TECHNICAL AMENDMENTS.—
15	(1) Clause (i) of section 6662(d)(2)(C) is
16	amended by striking "In the case of any item" and
17	inserting "In the case of any item of a taxpayer
18	other than a corporation which is".
19	(2) Clause (iii) of section 6662(d)(2)(C), as re-
20	designated by subsection (a), is amended by striking
21	"clause (i)" and inserting "this subparagraph".
22	(c) Effective Date.—The amendments made by
23	this section shall apply to items related to transactions
24	occurring after the date of the enactment of this Act

1	SEC. 745. MODIFICATION OF AUTHORITY TO SET TERMS
2	AND CONDITIONS FOR SAVINGS BONDS.
3	(a) In General.—Subsection (b) of section 3105 of
4	title 31, United States Code, is amended to read as fol-
5	lows:
6	"(b)(1) The Secretary may—
7	"(A) fix the investment yield for savings bonds
8	and
9	"(B) change the investment yield on an out-
10	standing savings bond, except that the yield on a
11	bond for the period held may not be decreased below
12	the minimum yield for the period guaranteed on the
13	date of issue.
14	"(2) The Secretary may prescribe regulations provid-
15	ing that—
16	"(A) owners of savings bonds may keep the
17	bonds after maturity or after a period beyond matu-
18	rity during which the bonds have earned interest and
19	continue to earn interest at rates consistent with
20	paragraph (1) of this subsection; and
21	"(B) savings bonds earning a different rate of
22	interest before the regulations are prescribed shall
23	earn a rate of interest consistent with paragraph
24	(1).''

1	(b) Effective Date.—The amendment made by
2	this section shall apply to bonds issued after October 31,
3	1994.
4	Subtitle F—Pension Plan Funding
5	and Premiums
6	SEC. 750. SHORT TITLE.
7	This subtitle may be cited as the "Retirement Protec-
8	tion Act of 1994".
9	PART I—PENSION PLAN FUNDING
10	Subpart A—Amendments to the Internal Revenue
11	Code of 1986
12	SEC. 751. MINIMUM FUNDING REQUIREMENTS.
13	(a) Amendments to Additional Funding Re-
14	QUIREMENTS FOR SINGLE-EMPLOYER PLANS.—
15	(1) Limitations on additional funding re-
16	QUIREMENT FOR CERTAIN PLANS.—
17	(A) IN GENERAL.—Paragraph (1) of sec-
18	tion 412(l) (relating to additional funding re-
19	quirements for plans which are not multiem-
20	ployer plans) is amended by striking "which has
21	an unfunded current liability" and inserting "to
22	which this subsection applies under paragraph
23	(9)".

1	(B) Plans to which requirement ap-
2	PLIES.—Section 412(l) is amended by adding at
3	the end the following new paragraph:
4	"(9) Applicability of subsection.—
5	"(A) In general.—Except as provided in
6	paragraph (6)(A), this subsection shall apply to
7	a plan for any plan year if its funded current
8	liability percentage for such year is less than 90
9	percent.
10	"(B) Exception for certain plans at
11	LEAST 80 PERCENT FUNDED.—Subparagraph
12	(A) shall not apply to a plan for a plan year
13	if—
14	"(i) the funded current liability per-
15	centage for the plan year is at least 80
16	percent, and
17	"(ii) such percentage for each of the
18	2 immediately preceding plan years (or
19	each of the 2d and 3d immediately preced-
20	ing plan years) is at least 90 percent.
21	"(C) Funded current liability per-
22	CENTAGE.—For purposes of subparagraphs (A)
23	and (B), the term 'funded current liability per-
24	centage' has the meaning given such term by

1	paragraph (8)(B), except that such percentage
2	shall be determined for any plan year—
3	"(i) without regard to paragraph
4	(8)(E), and
5	"(ii) by using the rate of interest
6	which is the highest rate allowable for the
7	plan year under paragraph (7)(C).
8	"(D) Transition rules.—For purposes
9	of this paragraph:
10	"(i) Funded percentage for
11	YEARS BEFORE 1995.—The funded current
12	liability percentage for any plan year be-
13	ginning before January 1, 1995, shall be
14	treated as not less than 90 percent only if
15	for such plan year the plan met one of the
16	following requirements (as in effect for
17	such year):
18	"(I) The full-funding limitation
19	under subsection $(c)(7)$ for the plan
20	was zero.
21	"(II) The plan had no additional
22	funding requirement under this sub-
23	section (or would have had no such
24	requirement if its funded current li-

1	ability percentage had been deter-
2	mined under subparagraph (C)).
3	"(III) The plan's additional fund-
4	ing requirement under this subsection
5	did not exceed the lesser of 0.5 per-
6	cent of current liability or \$5,000,000.
7	"(ii) Special rule for 1995 and
8	1996.—For purposes of determining wheth-
9	er subparagraph (B) applies to any plan
10	year beginning in 1995 or 1996, a plan
11	shall be treated as meeting the require-
12	ments of subparagraph (B)(ii) if the plan
13	met the requirements of clause (i) of this
14	subparagraph for any two of the plan years
15	beginning in 1992, 1993, and 1994
16	(whether or not consecutive)."
17	(2) Relationship of additional funding
18	REQUIREMENT TO FUNDING STANDARD ACCOUNT
19	CHARGES AND CREDITS.—
20	(A) Clause (ii) of section $412(l)(1)(A)$ is
21	amended to read as follows:
22	"(ii) the sum of the charges for such
23	plan year under subsection (b)(2), reduced
24	by the sum of the credits for such plan

1	year under subparagraph (B) of subsection
2	(b)(3), plus''.
3	(B) The last sentence in section $412(l)(1)$
4	of such Code is amended to read as follows:
5	"Such increase shall not exceed the amount which,
6	after taking into account charges (other than the ad-
7	ditional charge under this subsection) and credits
8	under subsection (b), is necessary to increase the
9	funded current liability percentage (taking into ac-
10	count the expected increase in current liability due
11	to benefits accruing during the plan year) to 100
12	percent."
13	(3) Amendment to deficit reduction con-
14	TRIBUTION.—Paragraph (2) of section 412(l) is
15	amended—
16	(A) by striking "plus" at the end of sub-
17	paragraph (A);
18	(B) by striking the period at the end of
19	subparagraph (B) and inserting ", plus"; and
20	(C) by adding at the end the following new
21	subparagraph:
22	"(C) the expected increase in current li-
23	ability due to benefits accruing during the plan
24	year.''

1	(4) INCREASE IN CURRENT LIABILITY DUE TO
2	CHANGE IN REQUIRED ASSUMPTIONS.—
3	(A) Paragraph (3) of section 412(l) is
4	amended by adding at the end the following
5	new subparagraphs:
6	"(D) Special rule for required
7	CHANGES IN ACTUARIAL ASSUMPTIONS.—
8	"(i) IN GENERAL.—The unfunded old
9	liability amount with respect to any plan
10	for any plan year shall be increased by the
11	amount necessary to amortize the amount
12	of additional unfunded old liability under
13	the plan in equal annual installments over
14	a period of 12 plan years (beginning with
15	the first plan year beginning after Decem-
16	ber 31, 1994).
17	"(ii) Additional unfunded old li-
18	ABILITY.—For purposes of clause (i), the
19	term 'additional unfunded old liability'
20	means the amount (if any) by which—
21	"(I) the current liability of the
22	plan as of the beginning of the first
23	plan year beginning after December
24	31, 1994, valued using the assump-
25	tions required by paragraph (7)(C) as

1	in effect for plan years beginning
2	after December 31, 1994, exceeds
3	"(II) the current liability of the
4	plan as of the beginning of such first
5	plan year, valued using the same as-
6	sumptions used under subclause (I)
7	(other than the assumptions required
8	by paragraph $(7)(C)$, using the prior
9	interest rate, and using such mortality
10	assumptions as were used to deter-
11	mine current liability for the first plan
12	year beginning after December 31,
13	1992.
14	"(iii) Prior interest rate.—For
15	purposes of clause (ii), the term 'prior in-
16	terest rate' means the rate of interest that
17	is the same percentage of the weighted av-
18	erage under subsection $(b)(5)(B)(ii)(I)$ for
19	the first plan year beginning after Decem-
20	ber 31, 1994, as the rate of interest used
21	by the plan to determine current liability
22	for the first plan year beginning after De-
23	cember 31, 1992, is of the weighted aver-
24	age under subsection (b)(5)(B)(ii)(I) for

1	such first plan year beginning after De-
2	cember 31, 1992.
3	"(E) Optional rule for additional
4	UNFUNDED OLD LIABILITY.—
5	"(i) In GENERAL.—If an employer
6	makes an election under clause (ii), the ad-
7	ditional unfunded old liability for purposes
8	of subparagraph (D) shall be the amount
9	(if any) by which—
10	"(I) the unfunded current liabil-
11	ity of the plan as of the beginning of
12	the first plan year beginning after De-
13	cember 31, 1994, valued using the as-
14	sumptions required by paragraph
15	(7)(C) as in effect for plan years be-
16	ginning after December 31, 1994, ex-
17	ceeds
18	"(II) the unamortized portion of
19	the unfunded old liability under the
20	plan as of the beginning of the first
21	plan year beginning after December
22	31, 1994.
23	"(ii) Election.—
24	"(I) An employer may irrevocably
25	elect to apply the provisions of this

1	subparagraph as of the beginning of
2	the first plan year beginning after De-
3	cember 31, 1994.
4	"(II) If an election is made under
5	this clause, the increase under para-
6	graph (1) for any plan year beginning
7	after December 31, 1994, and before
8	January 1, 2002, to which this sub-
9	section applies (without regard to this
10	subclause) shall not be less than the
11	increase that would be required under
12	paragraph (1) if the provisions of this
13	title as in effect for the last plan year
14	beginning before January 1, 1995,
15	had remained in effect."
16	(B) Clause (i) of section $412(l)(4)(B)$ is
17	amended by inserting ", the unamortized por-
18	tion of the additional unfunded old liability,"
19	after "old liability".
20	(5) Applicable percentage for determin-
21	ING UNFUNDED NEW LIABILITY AMOUNT.—Subpara-
22	graph (C) of section 412(l)(4) is amended—
23	(A) by striking ".25" and inserting ".40",
24	and
25	(B) by striking "35" and inserting "60".

1	(6) Unpredictable contingent event
2	AMOUNT.—
3	(A) Subparagraph (A) of section 412(l)(5)
4	is amended—
5	(i) by striking "greater of" and insert-
6	ing "greatest of" before clause (i);
7	(ii) by striking "or" at the end of
8	clause (i);
9	(iii) by striking the period at the end
10	of clause (ii) and inserting ", or"; and
11	(iv) by adding after clause (ii) the fol-
12	lowing new clause:
13	"(iii) the additional amount that
14	would be determined under paragraph
15	(4)(A) if the unpredictable contingent
16	event benefit liabilities were included in
17	unfunded new liability notwithstanding
18	paragraph (4)(B)(ii)."
19	(B) Paragraph (5) of section 412(l) is
20	amended by adding at the end the following
21	new subparagraph:
22	"(E) Limitation.—The present value of
23	the amounts described in subparagraph (A)
24	with respect to any one event shall not exceed

1	the unpredictable contingent event benefit li-
2	abilities attributable to that event."
3	(C) Clause (ii) of section $412(m)(4)(D)$ is
4	amended—
5	(i) by striking "greater of" and insert-
6	ing "greatest of" before subclause (I);
7	(ii) by striking "or" at the end of
8	subclause (I);
9	(iii) by striking the period at the end
10	of subclause (II) and inserting ", or"; and
11	(iv) by adding after subclause (II) the
12	following new clause:
13	"(III) 25 percent of the amount
14	determined under subsection
15	(l)(5)(A)(iii) for the plan year."
16	(7) Required interest rate and mortality
17	ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-
18	ITY.—
19	(A) IN GENERAL.—Subparagraph (C) of
20	section $412(l)(7)$ is amended to read as follows:
21	"(C) Interest rate and mortality as-
22	SUMPTIONS USED.—Effective for plan years be-
23	ginning after December 31, 1994—
24	"(i) Interest rate.—

1		"(1) IN GENERAL.—The rate of
2		interest used to determine current li-
3		ability under this subsection shall be
4		the rate of interest used under sub-
5		section (b)(5), except that the highest
6		rate in the permissible range under
7		subparagraph (B)(ii) thereof shall not
8		exceed the specified percentage under
9		subclause (II) of the weighted average
10		referred to in such subparagraph.
11		"(II) Specified percentage.—
12		For purposes of subclause (I), the
13		specified percentage shall be deter-
14		mined as follows:
	ginning in caler 1995 1996 1997 1998	years be- The specified percentage is: adar year: 109 108 107 106 105
15		"(ii) Mortality tables.—
16		"(I) Commissioners' standard
17		TABLE.—In the case of plan years be-
18		ginning before the first plan year to
19		which the first tables prescribed under
20		subclause (II) apply, the mortality
21		table used in determining current li-

1	the table prescribed by the Secretary
2	which is based on the prevailing com-
3	missioners' standard table (described
4	in section $807(d)(5)(A)$) used to de-
5	termine reserves for group annuity
6	contracts issued on January 1, 1993.
7	"(II) SECRETARIAL AUTHOR-
8	ITY.—The Secretary may by regula-
9	tion prescribe for plan years beginning
10	after December 31, 1999, mortality
11	tables to be used in determining cur-
12	rent liability under this subsection.
13	Such tables shall be based upon the
14	actual experience of pension plans and
15	projected trends in such experience.
16	In prescribing such tables, the Sec-
17	retary shall take into account results
18	of available independent studies of
19	mortality of individuals covered by
20	pension plans.
21	"(III) Periodic review.—The
22	Secretary shall periodically (at least
23	every 5 years) review any tables in ef-
24	fect under this subsection and shall,
25	to the extent the Secretary determines

1	necessary, by regulation update the
2	tables to reflect the actual experience
3	of pension plans and projected trends
4	in such experience.
5	"(iii) Separate mortality tables
6	for the disabled.—Notwithstanding
7	clause (ii)—
8	"(I) In general.—In the case
9	of plan years beginning after Decem-
10	ber 31, 1995, the Secretary shall es-
11	tablish mortality tables which may be
12	used (in lieu of the tables under
13	clause (ii)) to determine current liabile
14	ity under this subsection for individ-
15	uals who are entitled to benefits under
16	the plan on account of disability. The
17	Secretary shall establish separate ta-
18	bles for individuals whose disabilities
19	occur in plan years beginning before
20	January 1, 1995, and for individuals
21	whose disabilities occur in plan years
22	beginning on or after such date.
23	"(II) Special rule for dis-
24	ABILITIES OCCURRING AFTER 1994.—
25	In the case of disabilities occurring in

1	plan years beginning after December
2	31, 1994, the tables under subclause
3	(I) shall apply only with respect to in-
4	dividuals described in such subclause
5	who are disabled within the meaning
6	of title II of the Social Security Act
7	and the regulations thereunder.
8	"(III) Plan years beginning
9	IN 1995.—In the case of any plan year
10	beginning in 1995, a plan may use its
11	own mortality assumptions for indi-
12	viduals who are entitled to benefits
13	under the plan on account of disabil-
14	ity.''
15	(B) Amortization of unfunded mor-
16	TALITY INCREASE AMOUNT.—
17	(i) IN GENERAL.—Paragraph (2) of
18	section 412(l), as amended by paragraph
19	(3), is amended by striking "plus" at the
20	end of subparagraph (B), by striking the
21	period at the end of subparagraph (C) and
22	inserting ", and", and by adding at the
23	end the following new subparagraph:
24	"(D) the aggregate of the unfunded mor-
25	tality increase amounts."

1	(ii) Unfunded mortality increase
2	AMOUNT.—Section 412(l), as amended by
3	paragraph (1), is amended by adding at
4	the end the following new paragraph:
5	"(10) Unfunded mortality increase
6	AMOUNT.—
7	"(A) IN GENERAL.—The unfunded mortal-
8	ity increase amount with respect to each un-
9	funded mortality increase is the amount nec-
10	essary to amortize such increase in equal an-
11	nual installments over a period of 10 plan years
12	(beginning with the first plan year for which a
13	plan uses any new mortality table issued under
14	paragraph (7)(C)(ii)(II) or (III)).
15	"(B) Unfunded mortality increase.—
16	For purposes of subparagraph (A), the term
17	'unfunded mortality increase' means an amount
18	equal to the excess of—
19	"(i) the current liability of the plan
20	for the first plan year for which a plan
21	uses any new mortality table issued under
22	paragraph (7)(C)(ii)(II) or (III), over
23	"(ii) the current liability of the plan
24	for such plan year which would have been
25	determined if the mortality table in effect

1	for the preceding plan year had been
2	used.''
3	(iii) Conforming amendment.—
4	Clause (i) of section $412(l)(4)(B)$, as
5	amended by paragraph (4)(B), is amended
6	by inserting "the unamortized portion of
7	each unfunded mortality increase," after
8	"additional unfunded old liability,".
9	(8) Transition rule.—Section 412(l), as
10	amended by paragraph (7), is amended by adding at
11	the end the following new paragraph:
12	"(11) Phase-in of increases in funding
13	REQUIRED BY RETIREMENT PROTECTION ACT OF
14	1994.—
15	"(A) In GENERAL.—For any applicable
16	plan year, at the election of the employer, the
17	increase under paragraph (1) shall not exceed
18	the greater of—
19	"(i) the increase that would be re-
20	quired under paragraph (1) if the provi-
21	sions of this title as in effect for plan years
22	beginning before January 1, 1995, had re-
23	mained in effect, or
24	''(ii) the amount which, after taking
25	into account charges (other than the addi-

3	to increase the funded current liability per-
4	centage (taking into account the expected
5	increase in current liability due to benefits
6	accruing during the plan year) for the ap-
7	plicable plan year to a percentage equal to
8	the sum of the initial funded current liabil-
9	ity percentage of the plan plus the applica-
10	ble number of percentage points for such
11	applicable plan year.
12	"(B) APPLICABLE NUMBER OF PERCENT
13	AGE POINTS.—
14	"(i) Initial funded current li-
15	ABILITY PERCENTAGE OF 75 PERCENT OF
16	LESS.—Except as provided in clause (ii)
17	for plans with an initial funded current li-
18	ability percentage of 75 percent or less, the
19	applicable number of percentage points for
20	the applicable plan year is:
	"In the case The applicable number of plan years percentage

"In the case	The applicable
of applicable	number of
plan years	percentage
beginning in:	points is:
1995	3
1996	6
1997	9
1998	
1999	
2000	
2001	

1	"(ii) OTHER CASES.—In the case of a
2	plan to which this clause applies, the appli-
3	cable number of percentage points for any
4	such applicable plan year is the sum of-
5	"(I) 2 percentage points;
6	"(II) the applicable number of
7	percentage points (if any) under this
8	clause for the preceding applicable
9	plan year;
10	"(III) the product of .10 multi-
11	plied by the excess (if any) of (a) 85
12	percentage points over (b) the sum of
13	the initial funded current liability per-
14	centage and the number determined
15	under subclause (II);
16	"(IV) for applicable plan years
17	beginning in 2000, 1 percentage
18	point; and
19	"(V) for applicable plan years be-
20	ginning in 2001, 2 percentage points.
21	"(iii) Plans to which clause (ii)
22	APPLIES.—
23	"(I) In general.—Clause (ii)
24	shall apply to a plan for an applicable
25	plan year if the initial funded current

1	liability percentage of such plan is
2	more than 75 percent.
3	"(II) Plans initially under
4	CLAUSE (i).—In the case of a plan
5	which (but for this subclause) has an
6	initial funded current liability percent-
7	age of 75 percent or less, clause (ii)
8	(and not clause (i)) shall apply to
9	such plan with respect to applicable
10	plan years beginning after the first
11	applicable plan year for which the
12	sum of the initial funded current li-
13	ability percentage and the applicable
14	number of percentage points (deter-
15	mined under clause (i)) exceeds 75
16	percent. For purposes of applying
17	clause (ii) to such a plan, the initial
18	funded current liability percentage of
19	such plan shall be treated as being the
20	sum referred to in the preceding sen-
21	tence.
22	"(C) Definitions.—For purposes of this
23	paragraph:

1	''(i) The term 'applicable plan year'
2	means a plan year beginning after Decem-
3	ber 31, 1994, and before January 1, 2002
4	''(ii) The term 'initial funded current
5	liability percentage' means the funded cur-
6	rent liability percentage as of the first day
7	of the first plan year beginning after De-
8	cember 31, 1994.''
9	(9) Liquidity requirement.—
10	(A) IN GENERAL.—Section 412(m) is
11	amended by redesignating paragraph (5) as
12	paragraph (6) and by inserting after paragraph
13	(4) the following new paragraph:
14	"(5) Liquidity requirement.—
15	"(A) IN GENERAL.—A plan to which this
16	paragraph applies shall be treated as failing to
17	pay the full amount of any required installment
18	to the extent that the value of the liquid assets
19	paid in such installment is less than the liquid-
20	ity shortfall (whether or not such liquidity
21	shortfall exceeds the amount of such install-
22	ment required to be paid but for this para-
23	graph).
24	"(B) Plans to which paragraph ap-
25	PLIES.—This paragraph shall apply to a de-

1	fined benefit plan (other than a multiemployer
2	plan or a plan described in subsection $(l)(6)(A)$
3	which—
4	"(i) is required to pay installments
5	under this subsection for a plan year, and
6	"(ii) has a liquidity shortfall for any
7	quarter during such plan year.
8	"(C) Period of underpayment.—For
9	purposes of paragraph (1), any portion of an
10	installment that is treated as not paid under
11	subparagraph (A) shall continue to be treated
12	as unpaid until the close of the quarter in
13	which the due date for such installment occurs.
14	"(D) Limitation on increase.—If the
15	amount of any required installment is increased
16	by reason of subparagraph (A), in no event
17	shall such increase exceed the amount which,
18	when added to prior installments for the plan
19	year, is necessary to increase the funded cur-
20	rent liability percentage (taking into account
21	the expected increase in current liability due to
22	benefits accruing during the plan year) to 100
23	percent.
24	"(E) Definitions.—For purposes of this
25	paragraph:

1	"(i) Liquidity shortfall.—The
2	term 'liquidity shortfall' means, with re-
3	spect to any required installment, an
4	amount equal to the excess (as of the last
5	day of the quarter for which such install-
6	ment is made) of the base amount with re-
7	spect to such quarter over the value (as of
8	such last day) of the plan's liquid assets.
9	"(ii) Base amount.—
10	"(I) IN GENERAL.—The term
11	'base amount' means, with respect to
12	any quarter, an amount equal to 3
13	times the sum of the adjusted dis-
14	bursements from the plan for the 12
15	months ending on the last day of such
16	quarter.
17	"(II) Special rule.—If the
18	amount determined under clause (i)
19	exceeds an amount equal to 2 times
20	the sum of the adjusted disburse-
21	ments from the plan for the 36
22	months ending on the last day of the
23	quarter and an enrolled actuary cer-
24	tifies to the satisfaction of the Sec-

retary that such excess is the result of

1	nonrecurring circumstances, the base
2	amount with respect to such quarter
3	shall be determined without regard to
4	amounts related to those nonrecurring
5	circumstances.
6	"(iii) Disbursements from the
7	PLAN.—The term 'disbursements from the
8	plan' means all disbursements from the
9	trust, including purchases of annuities,
10	payments of single sums and other bene-
11	fits, and administrative expenses.
12	"(iv) Adjusted disbursements.—
13	The term 'adjusted disbursements' means
14	disbursements from the plan reduced by
15	the product of—
16	"(I) the plan's funded current li-
17	ability percentage (as defined in sub-
18	section (l)(8)) for the plan year, and
19	"(II) the sum of the purchases of
20	annuities, payments of single sums,
21	and such other disbursements as the
22	Secretary shall provide in regulations.
23	"(v) Liquid Assets.—The term 'liq-
24	uid assets' means cash, marketable securi-

1	ties and such other assets as specified by
2	the Secretary in regulations.
3	"(vi) QUARTER.—The term 'quarter'
4	means, with respect to any required install-
5	ment, the 3-month period preceding the
6	month in which the due date for such in-
7	stallment occurs.
8	"(F) REGULATIONS.—The Secretary may
9	prescribe such regulations as are necessary to
10	carry out this paragraph."
11	(B) Excise tax on unpaid liquidity
12	SHORTFALL.—
13	(i) Subsection (e) of section 4971 is
14	amended by striking "(a) or (b)" wherever
15	it appears and inserting "(a), (b), or (f)".
16	(ii) Section 4971 is amended by redes-
17	ignating subsection (f) as subsection (g)
18	and adding a new subsection (f) to read as
19	follows:
20	"(f) Failure To Pay Liquidity Shortfall.—
21	"(1) IN GENERAL.—In the case of a plan to
22	which section 412(m)(5) applies, there is hereby im-
23	posed a tax of 10 percent of the excess (if any) of-
24	"(A) the amount of the liquidity shortfall
25	for any quarter, over

1	"(B) the amount of such shortfall which is
2	paid by the required installment under section
3	412(m) for such quarter (but only if such in-
4	stallment is paid on or before the due date for
5	such installment).
6	"(2) Additional tax.—If the plan has a li-
7	quidity shortfall as of the close of any quarter and
8	as of the close of each of the following 4 quarters
9	there is hereby imposed a tax equal to 100 percent
10	of the amount on which tax was imposed by para-
11	graph (1) for such first quarter.
12	"(3) Definitions and special rule.—
13	"(A) Liquidity shortfall; quarter.—
14	For purposes of this subsection, the terms 'li-
15	quidity shortfall' and 'quarter' have the respec-
16	tive meanings given such terms by section
17	412(m)(5).
18	"(B) Special rule.—If the tax imposed
19	by paragraph (2) is paid with respect to any li-
20	quidity shortfall for any quarter, no further tax
21	shall be imposed by this subsection on such
22	shortfall for such quarter."
23	(C) Treatment of failure to make
24	CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY

1	SHORTFALL.—Section 401(a) is amended by
2	adding at the end the following new paragraph:
3	"(32) Treatment of failure to make cer-
4	TAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORT-
5	FALL.—
6	"(A) IN GENERAL.—A trust forming part
7	of a pension plan to which section $412(m)(5)$
8	applies shall not be treated as failing to con-
9	stitute a qualified trust under this section mere-
10	ly because such plan ceases to make any pay-
11	ment described in subparagraph (B) during any
12	period that such plan has a liquidity shortfall
13	(as defined in section $412(m)(5)$).
14	"(B) Payments described.—A payment
15	is described in this subparagraph if such pay-
16	ment is—
17	"(i) any payment, in excess of the
18	monthly amount paid under a single life
19	annuity (plus any social security supple-
20	ments described in the last sentence of sec-
21	tion 411(a)(9)), to a participant or bene-
22	ficiary whose annuity starting date (as de-
23	fined in section $417(f)(2)$) occurs during
24	the period referred to in subparagraph (A),

1	"(ii) any payment for the purchase of
2	an irrevocable commitment from an insurer
3	to pay benefits, and
4	"(iii) any other payment specified by
5	the Secretary by regulations.
6	"(C) Period of Shortfall.—For pur-
7	poses of this paragraph, a plan has a liquidity
8	shortfall during the period that there is an
9	underpayment of an installment under section
10	412(m) by reason of paragraph (5)(A) thereof."
11	(10) Amendment to definition of full-
12	FUNDING LIMITATION.—
13	(A) Subparagraph (A) of section 412(c)(7)
14	is amended by inserting "(including the ex-
15	pected increase in current liability due to bene-
16	fits accruing during the plan year)" after "cur-
17	rent liability" in clause (i).
18	(B) Section 412(c)(7) is amended by add-
19	ing at the end the following new subparagraph:
20	"(E) MINIMUM AMOUNT.—
21	"(i) IN GENERAL.—In no event shall
22	the full-funding limitation determined
23	under subparagraph (A) be less than the
24	excess (if any) of—

1	"(I) 90 percent of the current li-
2	ability of the plan (including the ex-
3	pected increase in current liability due
4	to benefits accruing during the plan
5	year), over
6	"(II) the value of the plan's as-
7	sets determined under paragraph (2).
8	"(ii) Current liability; assets.—
9	For purposes of clause (i)—
10	"(I) the term 'current liability'
11	has the meaning given such term by
12	subsection (l)(7) (without regard to
13	subparagraph (D) thereof), and
14	"(II) assets shall not be reduced
15	by any credit balance in the funding
16	standard account."
17	(C) Subparagraph (B) of section 412(c)(7)
18	is amended to read as follows:
19	"(B) CURRENT LIABILITY.—For purposes
20	of subparagraph (D) and subclause (I) of sub-
21	paragraph (A)(i), the term 'current liability'
22	has the meaning given such term by subsection
23	(l)(7) (without regard to subparagraphs (C)
24	and (D) thereof) and using the rate of interest
25	used under subsection (b)(5)(B)."

1	(11) Reference to act.—Section 404(g)(4)
2	is amended by striking "the Single-Employer Pen-
3	sion Plan Amendments Act of 1986" and inserting
4	"the Retirement Protection Act of 1994".
5	(b) Effective Dates.—
6	(1) In general.—Except as provided in para-
7	graph (2), the amendments made by this section
8	shall apply to plan years beginning after December
9	31, 1994.
10	(2) REFERENCE.—The amendment made by
11	subsection (a)(11) shall take effect on the date of
12	the enactment of this Act.
13	SEC. 752. LIMITATION ON CHANGES IN CURRENT LIABILITY
13 14	SEC. 752. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.
14 15	ASSUMPTIONS.
14 15	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c)
141516	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended—
14151617	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended— (1) by striking "If the funding method" and in-
14 15 16 17 18	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended— (1) by striking "If the funding method" and inserting the following:
141516171819	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended— (1) by striking "If the funding method" and inserting the following: "(A) IN GENERAL.—If the funding method"
14 15 16 17 18 19 20	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended— (1) by striking "If the funding method" and inserting the following: "(A) IN GENERAL.—If the funding method", and
14 15 16 17 18 19 20 21	ASSUMPTIONS. (a) IN GENERAL.—Paragraph (5) of section 412(c) is amended— (1) by striking "If the funding method" and inserting the following: "(A) IN GENERAL.—If the funding method", and (2) by adding at the end the following new sub-

1	GLE-EMPLOYER PLANS SUBJECT TO ADDI-
2	TIONAL FUNDING REQUIREMENT.—
3	"(i) In general.—No actuarial as-
4	sumption (other than the assumptions de-
5	scribed in subsection $(l)(7)(C)$) used to de-
6	termine the current liability for a plan to
7	which this subparagraph applies may be
8	changed without the approval of the Sec-
9	retary.
10	"(ii) Plans to which subpara-
11	GRAPH APPLIES.—This subparagraph shall
12	apply to a plan only if—
13	"(I) the plan is a defined benefit
14	plan (other than a multiemployer
15	plan) to which title IV of the Em-
16	ployee Retirement Income Security
17	Act of 1974 applies;
18	"(II) the aggregate unfunded
19	vested benefits as of the close of the
20	preceding plan year (as determined
21	under section 4006(a)(3)(E)(iii) of the
22	Employee Retirement Income Security
23	Act of 1974) of such plan and all
24	other plans maintained by the contrib-
25	uting sponsors (as defined in section

1	4001(a)(13) of such Act) and mem-
2	bers of such sponsors' controlled
3	groups (as defined in section
4	4001(a)(14) of such Act) which are
5	covered by title IV of such Act (dis-
6	regarding plans with no unfunded
7	vested benefits) exceed \$50,000,000
8	and
9	"(III) the change in assumptions
10	(determined after taking into account
11	any changes in interest rate and mor-
12	tality table) results in a decrease in
13	the unfunded current liability of the
14	plan for the current plan year that ex-
15	ceeds \$50,000,000, or that exceeds
16	\$5,000,000 and that is 5 percent or
17	more of the current liability of the
18	plan before such change."
19	(b) Effective Date.—
20	(1) IN GENERAL.—The amendment made by
21	this section shall apply to changes in assumptions
22	for plan years beginning after October 28, 1993.
23	(2) CERTAIN CHANGES CEASE TO BE EFFEC-
24	TIVE.—In the case of changes in assumptions for
25	nlan years heginning after December 31, 1992, and

1	on or before October 28, 1993, such changes shall
2	cease to be effective for plan years beginning after
3	December 31, 1994, if—
4	(A) such change would have required the
5	approval of the Secretary of the Treasury had
6	such amendment applied to such change, and
7	(B) such change is not so approved.
8	SEC. 753. ANTICIPATION OF BARGAINED BENEFIT IN-
9	CREASES.
10	(a) In General.—Section 412(c) is amended by
11	adding at the end the following new paragraph:
12	"(12) Anticipation of Benefit increases
13	EFFECTIVE IN THE FUTURE.—In determining pro-
14	jected benefits, the funding method of a collectively
15	bargained plan described in section 413(a) (other
16	than a multiemployer plan) shall anticipate benefit
17	increases scheduled to take effect during the term of
18	the collective bargaining agreement applicable to the
19	plan.''
20	(b) EFFECTIVE DATE.—The amendment made by
21	this section shall apply to plan years beginning after De-
22	cember 31, 1994, with respect to collective bargaining
23	agreements in effect on or after January 1, 1995.

1	SEC. 754. MODIFICATION OF QUARTERLY CONTRIBUTION
2	REQUIREMENT.
3	(a) IN GENERAL.—Paragraph (1) of section 412(m)
4	is amended—
5	(1) by inserting "which has a funded current li-
6	ability percentage (as defined in subsection $(l)(8)$)
7	for the preceding plan year of less than 100 per-
8	cent" before "fails", and
9	(2) by striking "any plan year" and inserting
10	"the plan year".
11	(b) EFFECTIVE DATE.—The amendment made by
12	this section shall apply to plan years beginning after the
13	date of enactment of this Act.
14	SEC. 755. EXCEPTIONS TO EXCISE TAX ON NONDEDUCTIBLE
15	CONTRIBUTIONS.
16	(a) In General.—Section 4972(c) is amended by
17	adding at the end the following new paragraph:
18	"(6) Exceptions.—In determining the amount
19	of nondeductible contributions for any taxable year,
20	there shall not be taken into account—
21	"(A) contributions that would be deduct-
22	ible under section 404(a)(1)(D) if the plan had
23	more than 100 participants if—
24	"(i) the plan is covered under section
25	4021 of the Employee Retirement Income
26	Security Act of 1974, and

1	"(ii) the plan is terminated under sec-
2	tion 4041(b) of such Act on or before the
3	last day of the taxable year, and
4	"(B) contributions to 1 or more defined
5	contribution plans which are not deductible
6	when contributed solely because of section
7	404(a)(7), but only to the extent such contribu-
8	tions do not exceed 6 percent of compensation
9	(within the meaning of section 404(a)) paid or
10	accrued (during the taxable year for which the
11	contributions were made) to beneficiaries under
12	the plans.
13	If 1 or more defined benefit plans were taken into
14	account in determining the amount allowable as a
15	deduction under section 404 for contributions to any
16	defined contribution plan, subparagraph (B) shall
17	apply only if such defined benefit plans are described
18	in section $404(a)(1)(D)$. For purposes of subpara-
19	graph (B), the deductible limits under section
20	404(a)(7) shall first be applied to amounts contrib-
21	uted to a defined benefit plan and then to amounts
22	described in subparagraph (B)."
23	(b) Effective Date.—
24	(1) SECTION 4972(c)(6)(A).—Section
25	4972(c)(6)(A) of the Internal Revenue Code of 1986

1	(as added by this section) shall apply to taxable
2	years ending on or after the date of enactment of
3	this Act.
4	(2) SECTION 4972(c)(6)(B).—Section
5	4972(c)(6)(B) of such Code (as added by this sec-
6	tion) shall apply to taxable years ending on or after
7	December 31, 1992.
8	Subpart B—Amendments to the Employee
9	Retirement Income Security Act of 1974
10	SEC. 761. MINIMUM FUNDING REQUIREMENTS.
11	(a) Amendments to Additional Funding Re-
12	QUIREMENTS FOR SINGLE-EMPLOYER PLANS.—
13	(1) Limitations on additional funding re-
14	QUIREMENT FOR CERTAIN PLANS.—
15	(A) IN GENERAL.—Paragraph (1) of sec-
16	tion 302(d) of the Employee Retirement Income
17	Security Act of 1974 (29 U.S.C. 1082(d)) is
18	amended by striking "which has an unfunded
19	current liability" and inserting "to which this
20	subsection applies under paragraph (9)".
21	(B) Plans to which requirement ap-
22	PLIES.—Section 302(d) of such Act is amended
23	by adding at the end the following new para-
24	graph:
25	"(9) Applicability of subsection —

1	"(A) IN GENERAL.—Except as provided in
2	paragraph (6)(A), this subsection shall apply to
3	a plan for any plan year if its funded current
4	liability percentage for such year is less than 90
5	percent.
6	"(B) Exception for certain plans at
7	LEAST 80 PERCENT FUNDED.—Subparagraph
8	(A) shall not apply to a plan for a plan year
9	if—
10	"(i) the funded current liability per-
11	centage for the plan year is at least 80
12	percent, and
13	"(ii) such percentage for each of the
14	2 immediately preceding plan years (or
15	each of the 2d and 3d immediately preced-
16	ing plan years) is at least 90 percent.
17	"(C) Funded current liability per-
18	CENTAGE.—For purposes of subparagraphs (A)
19	and (B), the term 'funded current liability per-
20	centage' has the meaning given such term by
21	paragraph (8)(B), except that such percentage
22	shall be determined for any plan year—
23	''(i) without regard to paragraph
24	(8)(E), and

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1	"(ii) by using the rate of interest
2	which is the highest rate allowable for the
3	plan year under paragraph (7)(C).
4	"(D) Transition rules.—For purposes
5	of this paragraph:
6	"(i) Funded percentage for
7	YEARS BEFORE 1995.—The funded current
8	liability percentage for any plan year be-
9	ginning before January 1, 1995, shall be
10	treated as not less than 90 percent only if
11	for such plan year the plan met one of the
12	following requirements (as in effect for
13	such year):
14	"(I) The full-funding limitation
15	under subsection (c)(7) for the plan
16	was zero.
17	"(II) The plan had no additional
18	funding requirement under this sub-
19	section (or would have had no such
20	requirement if its funded current li-
21	ability percentage had been deter-
22	mined under subparagraph (C)).
23	"(III) The plan's additional fund-
24	ing requirement under this subsection

1	did not exceed the lesser of 0.5 per-
2	cent of current liability or \$5,000,000.
3	"(ii) Special rule for 1995 and
4	1996.—For purposes of determining wheth-
5	er subparagraph (B) applies to any plan
6	year beginning in 1995 or 1996, a plan
7	shall be treated as meeting the require-
8	ments of subparagraph (B)(ii) if the plan
9	met the requirements of clause (i) of this
10	subparagraph for any two of the plan years
11	beginning in 1992, 1993, and 1994
12	(whether or not consecutive)."
13	(2) Relationship of additional funding
14	REQUIREMENT TO FUNDING STANDARD ACCOUNT
15	CHARGES AND CREDITS.—
16	(A) Clause (ii) of section 302(d)(1)(A) of
17	such Act is amended to read as follows:
18	"(ii) the sum of the charges for such
19	plan year under subsection (b)(2), reduced
20	by the sum of the credits for such plan
21	year under subparagraph (B) of subsection
22	(b)(3), plus''.
23	(B) The last sentence in section $302(d)(1)$
24	of such Act is amended to read as follows:

1	"Such increase shall not exceed the amount which,
2	after taking into account charges (other than the ad-
3	ditional charge under this subsection) and credits
4	under subsection (b), is necessary to increase the
5	funded current liability percentage (taking into ac-
6	count the expected increase in current liability due
7	to benefits accruing during the plan year) to 100
8	percent.''
9	(3) Amendment to deficit reduction con-
10	TRIBUTION.—Paragraph (2) of section 302(d) of
11	such Act is amended—
12	(A) by striking "plus" at the end of sub-
13	paragraph (A);
14	(B) by striking the period at the end of
15	subparagraph (B) and inserting ", plus"; and
16	(C) by adding at the end the following new
17	subparagraph:
18	"(C) the expected increase in current li-
19	ability due to benefits accruing during the plan
20	year.''
21	(4) Increase in current liability due to
22	CHANGE IN REQUIRED ASSUMPTIONS.—
23	(A) Paragraph (3) of section 302(d) of
24	such Act is amended by adding at the end the
25	following new subparagraphs:

1	"(D) Special rule for required
2	CHANGES IN ACTUARIAL ASSUMPTIONS.—
3	"(i) IN GENERAL.—The unfunded old
4	liability amount with respect to any plan
5	for any plan year shall be increased by the
6	amount necessary to amortize the amount
7	of additional unfunded old liability under
8	the plan in equal annual installments over
9	a period of 12 plan years (beginning with
10	the first plan year beginning after Decem-
11	ber 31, 1994).
12	"(ii) Additional unfunded old li-
13	ABILITY.—For purposes of clause (i), the
14	term 'additional unfunded old liability'
15	means the amount (if any) by which—
16	"(I) the current liability of the
17	plan as of the beginning of the first
18	plan year beginning after December
19	31, 1994, valued using the assump-
20	tions required by paragraph (7)(C) as
21	in effect for plan years beginning
22	after December 31, 1994, exceeds
23	"(II) the current liability of the
24	plan as of the beginning of such first
25	plan year, valued using the same as-

1	sumptions used under subclause (I)
2	(other than the assumptions required
3	by paragraph (7)(C)), using the prior
4	interest rate, and using such mortality
5	assumptions as were used to deter-
6	mine current liability for the first plan
7	year beginning after December 31,
8	1992.
9	"(iii) Prior interest rate.—For
10	purposes of clause (ii), the term 'prior in-
11	terest rate' means the rate of interest that
12	is the same percentage of the weighted av-
13	erage under subsection $(b)(5)(B)(ii)(I)$ for
14	the first plan year beginning after Decem-
15	ber 31, 1994, as the rate of interest used
16	by the plan to determine current liability
17	for the first plan year beginning after De-
18	cember 31, 1992, is of the weighted aver-
19	age under subsection (b)(5)(B)(ii)(I) for
20	such first plan year beginning after De-
21	cember 31, 1992.
22	"(E) Optional rule for additional
23	UNFUNDED OLD LIABILITY.—
24	"(i) In general.—If an employer
25	makes an election under clause (ii), the ad-

1	ditional unfunded old liability for purposes
2	of subparagraph (D) shall be the amount
3	(if any) by which—
4	"(I) the unfunded current liabil-
5	ity of the plan as of the beginning of
6	the first plan year beginning after De-
7	cember 31, 1994, valued using the as-
8	sumptions required by paragraph
9	(7)(C) as in effect for plan years be-
10	ginning after December 31, 1994, ex-
11	ceeds
12	"(II) the unamortized portion of
13	the unfunded old liability under the
14	plan as of the beginning of the first
15	plan year beginning after December
16	31, 1994.
17	"(ii) Election.—
18	"(I) An employer may irrevocably
19	elect to apply the provisions of this
20	subparagraph as of the beginning of
21	the first plan year beginning after De-
22	cember 31, 1994.
23	"(II) If an election is made under
24	this clause, the increase under para-
25	graph (1) for any plan year beginning

1	after December 31, 1994, and before
2	January 1, 2002, to which this sub-
3	section applies (without regard to this
4	subclause) shall not be less than the
5	increase that would be required under
6	paragraph (1) if the provisions of this
7	title as in effect for the last plan year
8	beginning before January 1, 1995,
9	had remained in effect."
10	(B) Clause (i) of section $302(d)(4)(B)$ of
11	such Act is amended by inserting ", the
12	unamortized portion of the additional unfunded
13	old liability," after "old liability".
14	(5) Applicable percentage for determin-
15	ING UNFUNDED NEW LIABILITY AMOUNT.—Subpara-
16	graph (C) of section 302(d)(4) of such Act is
17	amended—
18	(A) by striking ".25" and inserting ".40",
19	and
20	(B) by striking "35" and inserting "60".
21	(6) Unpredictable contingent event
22	AMOUNT.—
23	(A) Subparagraph (A) of section 302(d)(5)
24	of such Act is amended—

1	(i) by striking "greater of" and insert-
2	ing "greatest of" before clause (i);
3	(ii) by striking "or" at the end of
4	clause (i);
5	(iii) by striking the period at the end
6	of clause (ii) and inserting ", or"; and
7	(iv) by adding after clause (ii) the fol-
8	lowing new clause:
9	"(iii) the additional amount that
10	would be determined under paragraph
11	(4)(A) if the unpredictable contingent
12	event benefit liabilities were included in
13	unfunded new liability notwithstanding
14	paragraph (4)(B)(ii)."
15	(B) Paragraph (5) of section 302(d) of
16	such Act is amended by adding at the end the
17	following new subparagraph:
18	"(E) Limitation.—The present value of
19	the amounts described in subparagraph (A)
20	with respect to any one event shall not exceed
21	the unpredictable contingent event benefit li-
22	abilities attributable to that event."
23	(C) Clause (ii) of section $302(e)(4)(D)$ of
24	such Act is amended—

1	(i) by striking "greater of" and insert-
2	ing "greatest of" before subclause (I);
3	(ii) by striking "or" at the end of
4	subclause (I);
5	(iii) by striking the period at the end
6	of subclause (II) and inserting ", or"; and
7	(iv) by adding after subclause (II) the
8	following new clause:
9	"(III) 25 percent of the amount
10	determined under subsection
11	(d)(5)(A)(iii) for the plan year."
12	(7) Required interest rate and mortality
13	ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-
14	ITY.—
15	(A) IN GENERAL.—Subparagraph (C) of
16	section 302(d)(7) of such Act is amended to
17	read as follows:
18	"(C) Interest rate and mortality as-
19	SUMPTIONS USED.—Effective for plan years be-
20	ginning after December 31, 1994—
21	"(i) Interest rate.—
22	"(I) IN GENERAL.—The rate of
23	interest used to determine current li-
24	ability under this subsection shall be
25	the rate of interest used under sub-

1	section (b)(5), except that the highest
2	rate in the permissible range under
3	subparagraph (B)(ii) thereof shall not
4	exceed the specified percentage under
5	subclause (II) of the weighted average
6	referred to in such subparagraph.
7	"(II) Specified percentage.—
8	For purposes of subclause (I), the
9	specified percentage shall be deter-
10	mined as follows:
"In the case of pla ginning in cal	· ·
1996 1997 1998	
1996 1997 1998 1999 and there	108 107 106 207 105 "(ii) MORTALITY TABLES.— "(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years be-
1996 1997 1998 1999 and there	"(ii) Mortality tables.— "(I) Commissioners' standard Table.—In the case of plan years beginning before the first plan year to
1996 1997 1998 1999 and there	"(ii) Mortality tables.— "(i) Commissioners' standard Table.—In the case of plan years beginning before the first plan year to which the first tables prescribed under
1996 1997 1998 1999 and there	"(ii) Mortality tables.— "(i) Commissioners' standard table.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality
1996 1997 1998 1999 and there	"(ii) Mortality tables.— "(ii) Mortality tables.— "(I) Commissioners' standard table.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current li-
1996	"(ii) MORTALITY TABLES.— "(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be
1996 1997 1998 1999 and there	"(ii) Mortality tables.— "(ii) Mortality tables.— "(I) Commissioners' standard table.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary
1996	"(ii) MORTALITY TABLES.— "(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be

1	807(d)(5)(A) of the Internal Revenue
2	Code of 1986) used to determine re-
3	serves for group annuity contracts is-
4	sued on January 1, 1993.
5	"(II) SECRETARIAL AUTHOR-
6	ITY.—The Secretary of the Treasury
7	may by regulation prescribe for plan
8	years beginning after December 31,
9	1999, mortality tables to be used in
10	determining current liability under
11	this subsection. Such tables shall be
12	based upon the actual experience of
13	pension plans and projected trends in
14	such experience. In prescribing such
15	tables, the Secretary of the Treasury
16	shall take into account results of
17	available independent studies of mor-
18	tality of individuals covered by pen-
19	sion plans.
20	"(III) Periodic review.—The
21	Secretary of the Treasury shall peri-
22	odically (at least every 5 years) review
23	any tables in effect under this sub-
24	section and shall, to the extent the
25	Secretary determines necessary, by

1	regulation update the tables to reflect
2	the actual experience of pension plans
3	and projected trends in such experi-
4	ence.
5	"(iii) Separate mortality tables
6	for the disabled.—Notwithstanding
7	clause (ii)—
8	"(I) In general.—In the case
9	of plan years beginning after Decem-
10	ber 31, 1995, the Secretary of the
11	Treasury shall establish mortality ta-
12	bles which may be used (in lieu of the
13	tables under clause (ii)) to determine
14	current liability under this subsection
15	for individuals who are entitled to
16	benefits under the plan on account of
17	disability. Such Secretary shall estab-
18	lish separate tables for individuals
19	whose disabilities occur in plan years
20	beginning before January 1, 1995,
21	and for individuals whose disabilities
22	occur in plan years beginning on or
23	after such date.
24	"(II) Special rule for dis-
25	ABILITIES OCCURRING AFTER 1994.—

1	In the case of disabilities occurring in
2	plan years beginning after December
3	31, 1994, the tables under subclause
4	(I) shall apply only with respect to in-
5	dividuals described in such subclause
6	who are disabled within the meaning
7	of title II of the Social Security Act
8	and the regulations thereunder.
9	"(III) Plan years beginning
10	IN 1995.—In the case of any plan year
11	beginning in 1995, a plan may use its
12	own mortality assumptions for indi-
13	viduals who are entitled to benefits
14	under the plan on account of disabil-
15	ity."
16	(B) Amortization of unfunded mor-
17	TALITY INCREASE AMOUNT.—
18	(i) IN GENERAL.—Paragraph (2) of
19	section 302(d) of such Act, as amended by
20	paragraph (3), is amended by striking
21	"plus" at the end of subparagraph (B), by
22	striking the period at the end of subpara-
23	graph (C) and inserting ", and", and by
24	adding at the end the following new sub-
25	paragraph:

1	"(D) the aggregate of the unfunded mor-
2	tality increase amounts."
3	(ii) Unfunded mortality increase
4	AMOUNT.—Section 302(d) of such Act, as
5	amended by paragraph (1), is amended by
6	adding at the end the following new para-
7	graph:
8	"(10) Unfunded mortality increase
9	AMOUNT.—
10	"(A) IN GENERAL.—The unfunded mortal-
11	ity increase amount with respect to each un-
12	funded mortality increase is the amount nec-
13	essary to amortize such increase in equal an-
14	nual installments over a period of 10 plan years
15	(beginning with the first plan year for which a
16	plan uses any new mortality table issued under
17	paragraph (7)(C)(ii)(II) or (III)).
18	"(B) Unfunded mortality increase.—
19	For purposes of subparagraph (A), the term
20	'unfunded mortality increase' means an amount
21	equal to the excess of—
22	"(i) the current liability of the plan
23	for the first plan year for which a plan
24	uses any new mortality table issued under
25	paragraph (7)(C)(ii)(II) or (III), over

1	"(ii) the current liability of the plan
2	for such plan year which would have been
3	determined if the mortality table in effect
4	for the preceding plan year had been
5	used.''
6	(iii) Conforming amendment.—
7	Clause (i) of section 302(d)(4)(B) of such
8	Act, as amended by paragraph (4)(B), is
9	amended by inserting "the unamortized
10	portion of each unfunded mortality in-
11	crease," after "additional unfunded old li-
12	ability,''.
13	(8) Transition rule.—Section 302(d) of such
14	Act, as amended by paragraph (7), is amended by
15	adding at the end the following new paragraph:
16	"(11) Phase-in of increases in funding
17	REQUIRED BY RETIREMENT PROTECTION ACT OF
18	1994.—
19	"(A) In GENERAL.—For any applicable
20	plan year, at the election of the employer, the
21	increase under paragraph (1) shall not exceed
22	the greater of—
23	"(i) the increase that would be re-
24	quired under paragraph (1) if the provi-
25	sions of this title as in effect for plan years

1	beginning before January 1, 1995, had re-
2	mained in effect, or
3	"(ii) the amount which, after taking
4	into account charges (other than the addi-
5	tional charge under this subsection) and
6	credits under subsection (b), is necessary
7	to increase the funded current liability per-
8	centage (taking into account the expected
9	increase in current liability due to benefits
10	accruing during the plan year) for the ap-
11	plicable plan year to a percentage equal to
12	the sum of the initial funded current liabil-
13	ity percentage of the plan plus the applica-
14	ble number of percentage points for such
15	applicable plan year.
16	"(B) Applicable number of percent-
17	AGE POINTS.—
18	"(i) Initial funded current li-
19	ABILITY PERCENTAGE OF 75 PERCENT OR
20	LESS.—Except as provided in clause (ii),
21	for plans with an initial funded current li-
22	ability percentage of 75 percent or less, the
23	applicable number of percentage points for
24	the applicable plan year is:

	"In the case of applicable of applicable plan years The applicable number of percentage percentage percentage percentage points is: 1995 3 1996 6 1997 9 1998 12 1999 15 2000 19 2001 24
1	"(ii) OTHER CASES.—In the case of a
2	plan to which this clause applies, the appli-
3	cable number of percentage points for any
4	such applicable plan year is the sum of—
5	"(I) 2 percentage points;
6	"(II) the applicable number of
7	percentage points (if any) under this
8	clause for the preceding applicable
9	plan year;
10	"(III) the product of .10 multi-
11	plied by the excess (if any) of (a) 85
12	percentage points over (b) the sum of
13	the initial funded current liability per-
14	centage and the number determined
15	under subclause (II);
16	"(IV) for applicable plan years
17	beginning in 2000, 1 percentage
18	point; and
19	"(V) for applicable plan years be-
20	ginning in 2001, 2 percentage points.

1 "(iii) Plans to which clause (ii)
2 APPLIES.—	
3 "(I) IN GENERAL.—Clause (ii)
4 shall apply to a plan for an applicab	ole
5 plan year if the initial funded curre	nt
6 liability percentage of such plan	is
7 more than 75 percent.	
8 "(II) Plans initially unde	ΞR
9 CLAUSE (i).—In the case of a pla	an
0 which (but for this subclause) has a	an
1 initial funded current liability percent	ıt-
2 age of 75 percent or less, clause (ii)
3 (and not clause (i)) shall apply	to
4 such plan with respect to applicab	ole
5 plan years beginning after the fir	st
6 applicable plan year for which the	he
7 sum of the initial funded current	li-
8 ability percentage and the applicab	ole
9 number of percentage points (dete	r-
0 mined under clause (i)) exceeds 7	75
percent. For purposes of applying	ng
clause (ii) to such a plan, the initi	ial
funded current liability percentage	of
4 such plan shall be treated as being the	he

1	sum referred to in the preceding sen-
2	tence.
3	"(C) Definitions.—For purposes of this
4	paragraph—
5	"(i) The term 'applicable plan year'
6	means a plan year beginning after Decem-
7	ber 31, 1994, and before January 1, 2002.
8	"(ii) The term 'initial funded current
9	liability percentage' means the funded cur-
10	rent liability percentage as of the first day
11	of the first plan year beginning after De-
12	cember 31, 1994.''
13	(9) Liquidity requirement.—
14	(A) IN GENERAL.—Section 302(e) of such
15	Act is amended by redesignating paragraph (5)
16	as paragraph (6) and by inserting after para-
17	graph (4) the following new paragraph:
18	"(5) Liquidity requirement.—
19	"(A) IN GENERAL.—A plan to which this
20	paragraph applies shall be treated as failing to
21	pay the full amount of any required installment
22	to the extent that the value of the liquid assets
23	paid in such installment is less than the liquid-
24	ity shortfall (whether or not such liquidity
25	shortfall exceeds the amount of such install-

1	ment required to be paid but for this para-
2	graph).
3	"(B) Plans to which paragraph ap-
4	PLIES.—This paragraph shall apply to a de-
5	fined benefit plan (other than a multiemployer
6	plan or a plan described in subsection
7	(d)(6)(A)) which—
8	"(i) is required to pay installments
9	under this subsection for a plan year, and
10	"(ii) has a liquidity shortfall for any
11	quarter during such plan year.
12	"(C) Period of underpayment.—For
13	purposes of paragraph (1), any portion of an
14	installment that is treated as not paid under
15	subparagraph (A) shall continue to be treated
16	as unpaid until the close of the quarter in
17	which the due date for such installment occurs.
18	"(D) Limitation on increase.—If the
19	amount of any required installment is increased
20	by reason of subparagraph (A), in no event
21	shall such increase exceed the amount which,
22	when added to prior installments for the plan
23	year, is necessary to increase the funded cur-
24	rent liability percentage (taking into account
25	the expected increase in current liability due to

1	benefits accruing during the plan year) to 100
2	percent.
3	"(E) Definitions.—For purposes of this
4	paragraph—
5	"(i) Liquidity shortfall.—The
6	term 'liquidity shortfall' means, with re-
7	spect to any required installment, an
8	amount equal to the excess (as of the last
9	day of the quarter for which such install-
10	ment is made) of the base amount with re-
11	spect to such quarter over the value (as of
12	such last day) of the plan's liquid assets.
13	"(ii) Base amount.—
14	"(I) IN GENERAL.—The term
15	'base amount' means, with respect to
16	any quarter, an amount equal to 3
17	times the sum of the adjusted dis-
18	bursements from the plan for the 12
19	months ending on the last day of such
20	quarter.
21	"(II) Special rule.—If the
22	amount determined under clause (i)
23	exceeds an amount equal to 2 times
24	the sum of the adjusted disburse-
25	ments from the plan for the 36

1	months ending on the last day of the
2	quarter and an enrolled actuary cer-
3	tifies to the satisfaction of the Sec-
4	retary of the Treasury that such ex-
5	cess is the result of nonrecurring cir-
6	cumstances, the base amount with re-
7	spect to such quarter shall be deter-
8	mined without regard to amounts re-
9	lated to those nonrecurring cir-
10	cumstances.
11	"(iii) Disbursements from the
12	PLAN.—The term 'disbursements from the
13	plan' means all disbursements from the
14	trust, including purchases of annuities,
15	payments of single sums and other bene-
16	fits, and administrative expenses.
17	"(iv) Adjusted disbursements.—
18	The term 'adjusted disbursements' means
19	disbursements from the plan reduced by
20	the product of—
21	"(I) the plan's funded current li-
22	ability percentage (as defined in sub-
23	section (d)(8)) for the plan year, and
24	"(II) the sum of the purchases of
25	annuities, payments of single sums,

1	and such other disbursements as the
2	Secretary of the Treasury shall pro-
3	vide in regulations.
4	"(v) Liquid Assets.—The term 'liq-
5	uid assets' means cash, marketable securi-
6	ties and such other assets as specified by
7	the Secretary of the Treasury in regula-
8	tions.
9	"(vi) QUARTER.—The term 'quarter'
10	means, with respect to any required install-
11	ment, the 3-month period preceding the
12	month in which the due date for such in-
13	stallment occurs.
14	"(F) REGULATIONS.—The Secretary of the
15	Treasury may prescribe such regulations as are
16	necessary to carry out this paragraph."
17	(B) Limitation on distributions
18	OTHER THAN LIFE ANNUITIES PAID BY THE
19	PLAN.—
20	(i) Section 206 of the Employee Re-
21	tirement Income Security Act of 1974 (29
22	U.S.C. 1056) is amended by adding at the
23	end the following new subsection:
24	"(e) Limitation on Distributions Other Than
25	LIFE ANNUITIES PAID BY THE PLAN.—

1	"(1) IN GENERAL.—Notwithstanding any other
2	provision of this part, the fiduciary of a pension plan
3	that is subject to the additional funding require-
4	ments of section 302(d) shall not permit a prohib-
5	ited payment to be made from a plan during a pe-
6	riod in which such plan has a liquidity shortfall (as
7	defined in section 302(e)(5)).
8	"(2) Prohibited payment.—For purposes of
9	paragraph (1), the term 'prohibited payment'
10	means—
11	"(A) any payment, in excess of the month-
12	ly amount paid under a single life annuity (plus
13	any social security supplements described in the
14	last sentence of section 204(b)(1)(G)), to a par-
15	ticipant or beneficiary whose annuity starting
16	date (as defined in section 205(h)(2)), that oc-
17	curs during the period referred to in paragraph
18	(1),
19	"(B) any payment for the purchase of an
20	irrevocable commitment from an insurer to pay
21	benefits, and
22	"(C) any other payment specified by the
23	Secretary of the Treasury by regulations.
24	"(3) Period of Shortfall.—For purposes of
25	this subsection, a plan has a liquidity shortfall dur-

1	ing the period that there is an underpayment of an
2	installment under section 302(e) by reason of para-
3	graph (5)(A) thereof.
4	"(4) Coordination with other provi-
5	SIONS.—Compliance with this subsection shall not
6	constitute a violation of any other provision of this
7	Act."
8	(ii) Section 502 of such Act is amend-
9	ed by adding at the end a new subsection
10	(m) to read as follows:
11	"(m) In the case of a distribution to a pension plan
12	participant or beneficiary in violation of section 206(e) by
13	a plan fiduciary, the Secretary shall assess a penalty
14	against such fiduciary in an amount equal to the value
15	of the distribution. Such penalty shall not exceed \$10,000
16	for each such distribution."
17	(10) Amendment to definition of full-
18	FUNDING LIMITATION.—
19	(A) Subparagraph (A) of section 302(c)(7)
20	of such Act is amended by inserting "(including
21	the expected increase in current liability due to
22	benefits accruing during the plan year)" after
23	"current liability" in clause (i).

1	(B) Section $302(c)(7)$ of such Act is
2	amended by adding at the end the following
3	new subparagraph:
4	"(E) MINIMUM AMOUNT.—
5	"(i) In general.—In no event shall
6	the full-funding limitation determined
7	under subparagraph (A) be less than the
8	excess (if any) of—
9	"(I) 90 percent of the current li-
10	ability of the plan (including the ex-
11	pected increase in current liability due
12	to benefits accruing during the plan
13	year), over
14	"(II) the value of the plan's as-
15	sets determined under paragraph (2).
16	"(ii) Current liability; assets.—
17	For purposes of clause (i)—
18	"(I) the term 'current liability'
19	has the meaning given such term by
20	subsection (d)(7) (without regard to
21	subparagraph (D) thereof), and
22	"(II) assets shall not be reduced
23	by any credit balance in the funding
24	standard account."

1	(C) Subparagraph (B) of section $302(c)(7)$
2	of such Act is amended to read as follows:
3	"(B) CURRENT LIABILITY.—For purposes
4	of subparagraph (D) and subclause (I) of sub-
5	paragraph (A)(i), the term 'current liability
6	has the meaning given such term by subsection
7	(d)(7) (without regard to subparagraphs (C)
8	and (D) thereof) and using the rate of interest
9	used under subsection (b)(5)(B)."
10	(11) Definition of contributing spon-
11	SOR.—Paragraph (13) of section 4001(a) of such
12	Act (29 U.S.C. 1301(a)(13)) is amended by striking
13	"means a person—" and all that follows and insert-
14	ing "means a person described in section
15	302(c)(11)(A) of this Act (without regard to section
16	302(c)(11)(B) of this Act) or section 412(c)(11)(A)
17	of the Internal Revenue Code of 1986 (without re-
18	gard to section 412(c)(11)(B) of such Code)."
19	(b) Effective Dates.—
20	(1) IN GENERAL.—Except as provided in para-
21	graph (2), the amendments made by this section
22	shall apply to plan years beginning after December
23	31, 1994.

1	(2) CONTRIBUTING SPONSOR.—The amendment
2	made by subsection (a)(11) shall be effective as if
3	included in the Pension Protection Act.
4	SEC. 762. LIMITATION ON CHANGES IN CURRENT LIABILITY
5	ASSUMPTIONS.
6	(a) IN GENERAL.—Paragraph (5) of section 302(c)
7	of the Employee Retirement Income Security Act of 1974
8	(29 U.S.C. 1082(c)(5)) is amended—
9	(1) by striking "If the funding method" and in-
10	serting the following:
11	"(A) IN GENERAL.—If the funding meth-
12	od", and
13	(2) by adding at the end the following new sub-
14	paragraph:
15	"(B) Approval required for certain
16	CHANGES IN ASSUMPTIONS BY CERTAIN SIN-
17	GLE-EMPLOYER PLANS SUBJECT TO ADDI-
18	TIONAL FUNDING REQUIREMENT.—
19	"(i) In general.—No actuarial as-
20	sumption (other than the assumptions de-
21	scribed in subsection $(d)(7)(C)$) used to de-
22	termine the current liability for a plan to
23	which this subparagraph applies may be
24	changed without the approval of the Sec-
25	retary of the Treasury.

1	"(ii) Plans to which subpara-
2	GRAPH APPLIES.—This subparagraph shall
3	apply to a plan only if—
4	"(I) the plan is a defined benefit
5	plan (other than a multiemployer
6	plan) to which title IV applies;
7	"(II) the aggregate unfunded
8	vested benefits as of the close of the
9	preceding plan year (as determined
10	under section $4006(a)(3)(E)(iii)$) of
11	such plan and all other plans main-
12	tained by the contributing sponsors
13	(as defined in section 4001(a)(13))
14	and members of such sponsors' con-
15	trolled groups (as defined in section
16	4001(a)(14)) which are covered by
17	title IV (disregarding plans with no
18	unfunded vested benefits) exceed
19	\$50,000,000; and
20	"(III) the change in assumptions
21	(determined after taking into account
22	any changes in interest rate and mor-
23	tality table) results in a decrease in
24	the unfunded current liability of the
25	plan for the current plan year that ex-

1	ceeds \$50,000,000, or that exceeds
2	\$5,000,000 and that is 5 percent or
3	more of the current liability of the
4	plan before such change."
5	(b) Effective Date.—
6	(1) IN GENERAL.—The amendment made by
7	this section shall apply to changes in assumptions
8	for plan years beginning after October 28, 1993.
9	(2) CERTAIN CHANGES CEASE TO BE EFFEC-
10	TIVE.—In the case of changes in assumptions for
11	plan years beginning after December 31, 1992, and
12	on or before October 28, 1993, such changes shall
13	cease to be effective for plan years beginning after
14	December 31, 1994, if—
15	(A) such change would have required the
16	approval of the Secretary of the Treasury had
17	such amendment applied to such change, and
18	(B) such change is not so approved.
19	SEC. 763. ANTICIPATION OF BARGAINED BENEFIT IN-
20	CREASES.
21	(a) IN GENERAL.—Section 302(c) of the Employee
22	Retirement Income Security Act of 1974 (29 U.S.C.
23	1082(c)) is amended by adding at the end the following
24	new paragraph:

1	"(12) Anticipation of benefit increases
2	EFFECTIVE IN THE FUTURE.—In determining pro-
3	jected benefits, the funding method of a collectively
4	bargained plan described in section 413(a) of the In-
5	ternal Revenue Code of 1986 (other than a multiem-
6	ployer plan) shall anticipate benefit increases sched-
7	uled to take effect during the term of the collective
8	bargaining agreement applicable to the plan."
9	(b) Effective Date.—The amendment made by
10	this section shall apply to plan years beginning after De-
11	cember 31, 1994 with respect to collective bargaining
12	agreements in effect on or after January 1, 1995.
13	SEC. 764. MODIFICATION OF QUARTERLY CONTRIBUTION
14	REQUIREMENT.
15	(a) IN GENERAL.—Paragraph (1) of section 302(e)
16	of the Employee Retirement Income Security Act of 1974
17	(29 U.S.C. 1082(e)) is amended—
18	(1) by inserting "which has a funded current li-
19	ability percentage (as defined in subsection $(d)(8)$)
20	for the preceding plan year of less than 100 per-
21	cent" before "fails", and
22	(2) by striking "any plan year" and inserting
23	"the plan year".

1	(b) EFFECTIVE DATE.—The amendment made by
2	this section shall apply to plan years beginning after the
3	date of enactment of this Act.
4	Subpart C—Other Funding Provisions
5	SEC. 766. PROHIBITION ON BENEFIT INCREASES WHERE
6	PLAN SPONSOR IS IN BANKRUPTCY.
7	(a) Amendment to the Employee Retirement
8	INCOME SECURITY ACT OF 1974.—Section 204 of the
9	Employee Retirement Income Security Act of 1974 (29
10	U.S.C. 1054) is amended by redesignating subsection (i)
11	as (j) and inserting after subsection (h) the following new
12	subsection:
13	``(i)(1) In the case of a plan described in paragraph
14	(3) which is maintained by an employer that is a debtor
15	in a case under title 11, United States Code, or similar
16	Federal or State law, no amendment of the plan which
17	increases the liabilities of the plan by reason of—
18	"(A) any increase in benefits,
19	"(B) any change in the accrual of benefits, or
20	"(C) any change in the rate at which benefits
21	become nonforfeitable under the plan,
	-
22	with respect to employees of the debtor, shall be effective
	with respect to employees of the debtor, shall be effective prior to the effective date of such employer's plan of reor-

1	"(2) Paragraph (1) shall not apply to any plan
2	amendment that—
3	"(A) the Secretary of the Treasury determines
4	to be reasonable and that provides for only de
5	minimis increases in the liabilities of the plan with
6	respect to employees of the debtor,
7	"(B) only repeals an amendment described in
8	section $302(c)(8)$,
9	"(C) is required as a condition of qualification
10	under part I of subchapter D of chapter 1 of the In-
11	ternal Revenue Code of 1986, or
12	"(D) was adopted prior to, or pursuant to a col-
13	lective bargaining agreement entered into prior to,
14	the date on which the employer became a debtor in
15	a case under title 11, United States Code, or similar
16	Federal or State law.
17	"(3) This subsection shall apply only to plans (other
18	than multiemployer plans) covered under section 4021 of
19	this Act for which the funded current liability percentage
20	(within the meaning of section 302(d)(8) of this Act) is
21	less than 100 percent after taking into account the effect
22	of the amendment.
23	"(4) For purposes of this subsection, the term 'em-
24	ployer' has the meaning set forth in section $302(c)(11)(A)$,
25	without regard to section 302(c)(11)(B)."

1	(b) Amendment to Internal Revenue Code of
2	1986.—Section 401(a), as amended by section 751 of this
3	Act, is further amended by adding at the end the following
4	new paragraph:
5	"(33) Prohibition on benefit increases
6	WHILE SPONSOR IS IN BANKRUPTCY.—
7	"(A) IN GENERAL.—A trust which is part
8	of a plan to which this paragraph applies shall
9	not constitute a qualified trust under this sec-
10	tion if an amendment to such plan is adopted
11	while the employer is a debtor in a case under
12	title 11, United States Code, or similar Federal
13	or State law, if such amendment increases li-
14	abilities of the plan by reason of—
15	"(i) any increase in benefits,
16	"(ii) any change in the accrual of ben-
17	efits, or
18	''(iii) any change in the rate at which
19	benefits become nonforfeitable under the
20	plan,
21	with respect to employees of the debtor, and
22	such amendment is effective prior to the effec-
23	tive date of such employer's plan of reorganiza-
24	tion.

1	"(B) Exceptions.—This paragraph shall
2	not apply to any plan amendment if—
3	"(i) the plan, were such amendment
4	to take effect, would have a funded current
5	liability percentage (as defined in section
6	412(l)(8)) of 100 percent or more,
7	"(ii) the Secretary determines that
8	such amendment is reasonable and pro-
9	vides for only de minimis increases in the
10	liabilities of the plan with respect to em-
11	ployees of the debtor,
12	''(iii) such amendment only repeals an
13	amendment described in subsection
14	412(c)(8), or
15	"(iv) such amendment is required as a
16	condition of qualification under this part.
17	"(C) Plans to which this paragraph
18	APPLIES.—This paragraph shall apply only to
19	plans (other than multiemployer plans) covered
20	under section 4021 of the Employee Retirement
21	Income Security Act of 1974.
22	"(D) Employer.—For purposes of this
23	paragraph, the term 'employer' means the em-
24	ployer referred to in section 412(c)(11) (with-
25	out regard to subparagraph (B) thereof)."

1	(c) Effective Date of Plan Amendment.—Sec-
2	tion 4022 of the Employee Retirement Income Security
3	Act of 1974 (29 U.S.C. 1322) is amended by inserting
4	at the end the following new subsection:
5	"(f) For purposes of this section, the effective date
6	of a plan amendment described in section $204(i)(1)$ shall
7	be the effective date of the plan of reorganization of the
8	employer described in section $204(i)(1)$ or, if later, the ef-
9	fective date stated in such amendment."
10	(d) EFFECTIVE DATE.—The amendments made by
11	this section shall apply to plan amendments adopted on
12	or after the date of enactment of this Act.
13	SEC. 767. SINGLE SUM DISTRIBUTIONS.
14	(a) Amendments to Internal Revenue Code of
15	1986 RELATING TO MINIMUM BENEFITS.—
16	(1) DETERMINATION OF PRESENT VALUE FOR
17	PURPOSES OF RESTRICTIONS ON MANDATORY DIS-
18	TRIBUTIONS.—Subparagraph (B) of section
19	411(a)(11) is amended to read as follows:
20	"(B) DETERMINATION OF PRESENT
21	VALUE.—For purposes of subparagraph (A),
22	the present value shall be calculated in accord-
23	ance with section 417(e)(3)."
24	(2) Determination of present value for
25	PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Para-

1	graph (3) of section 417(e) is amended to read as
2	follows:
3	"(3) Determination of present value.—
4	"(A) In general.—
5	"(i) Present value.—Except as
6	provided in subparagraph (B), for pur-
7	poses of paragraphs (1) and (2), the
8	present value shall not be less than the
9	present value calculated by using the appli-
10	cable mortality table and the applicable in-
11	terest rate.
12	"(ii) Definitions.—For purposes of
13	clause (i)—
14	"(I) APPLICABLE MORTALITY
15	TABLE.—The term 'applicable mortal-
16	ity table' means the table prescribed
17	by the Secretary. Such table shall be
18	based on the prevailing commis-
19	sioners' standard table (described in
20	section $807(d)(5)(A)$) used to deter-
21	mine reserves for group annuity con-
22	tracts issued on the date as of which
23	present value is being determined
24	(without regard to any other subpara-
25	graph of section $807(d)(5)$.

1	"(II) Applicable interest
2	RATE.—The term 'applicable interest
3	rate' means the annual rate of inter-
4	est on 30-year Treasury securities for
5	the month before the date of distribu-
6	tion or such other time as the Sec-
7	retary may by regulations prescribe.
8	"(B) Exception.—In the case of a dis-
9	tribution from a plan that was adopted and in
10	effect before the date of the enactment of the
11	Retirement Protection Act of 1994, the present
12	value of any distribution made before the ear-
13	lier of—
14	"(i) the later of the date a plan
15	amendment applying subparagraph (A) is
16	adopted or made effective, or
17	"(ii) the first day of the first plan
18	year beginning after December 31, 1999,
19	shall be calculated, for purposes of paragraphs
20	(1) and (2), using the interest rate determined
21	under the regulations of the Pension Benefit
22	Guaranty Corporation for determining the
23	present value of a lump sum distribution on
24	plan termination that were in effect on Septem-
25	ber 1, 1993, and using the provisions of the

1	plan as in effect on the day before such date of
2	enactment; but only if such provisions of the
3	plan met the requirements of section 417(e)(3)
4	as in effect on the day before such date of en-
5	actment."
6	(b) Amendments to Internal Revenue Code of
7	1986 RELATING TO MAXIMUM BENEFITS.—Subpara-
8	graph (E) of section 415(b)(2) is amended—
9	(1) by redesignating clauses (ii) and (iii) as
10	clauses (iii) and (iv), respectively,
11	(2) by striking clause (i) and inserting the fol-
12	lowing new clauses:
13	"(i) Except as provided in clause (ii),
14	for purposes of adjusting any benefit or
15	limitation under subparagraph (B) or (C),
16	the interest rate assumption shall not be
17	less than the greater of 5 percent or the
18	rate specified in the plan.
19	"(ii) For purposes of adjusting the
20	benefit or limitation of any form of benefit
21	subject to section 417(e)(3), the applicable
22	interest rate (as defined in section
23	417(e)(3)) shall be substituted for '5 per-
24	cent' in clause (i).'', and

1	(3) by adding at the end the following new
2	clause:
3	"(v) For purposes of adjusting any
4	benefit or limitation under subparagraph
5	(B), (C), or (D), the mortality table used
6	shall be the table prescribed by the Sec-
7	retary. Such table shall be based on the
8	prevailing commissioners' standard table
9	(described in section $807(d)(5)(A)$) used to
10	determine reserves for group annuity con-
11	tracts issued on the date the adjustment is
12	being made (without regard to any other
13	subparagraph of section 807(d)(5))."
14	(c) Amendments to Employee Retirement In-
15	COME SECURITY ACT OF 1974.—
16	(1) Determination of present value for
17	PURPOSES OF RESTRICTIONS ON MANDATORY DIS-
18	TRIBUTIONS.—Section 203(e)(2) of the Employee
19	Retirement Income Security Act of 1974 (29 U.S.C.
20	1053(e)(2)) is amended to read as follows:
21	"(2) For purposes of paragraph (1), the present value
22	shall be calculated in accordance with section $205(g)(3)$."
23	(2) Determination of present value for
24	PURPOSES OF RESTRICTIONS ON CASH-OUTS —Sec-

1	tion 205(g)(3) of such Act (29 U.S.C. 1055(g)(3))
2	is amended to read as follows:
3	"(3) Determination of present value.—
4	"(A) In general.—
5	"(i) Present value.—Except as
6	provided in subparagraph (B), for pur-
7	poses of paragraphs (1) and (2), the
8	present value shall not be less than the
9	present value calculated by using the appli-
10	cable mortality table and the applicable in-
11	terest rate.
12	"(ii) Definitions.—For purposes of
13	clause (i)—
14	"(I) Applicable mortality
15	TABLE.—The term 'applicable mortal-
16	ity table' means the table prescribed
17	by the Secretary of the Treasury.
18	Such table shall be based on the pre-
19	vailing commissioners' standard table
20	(described in section $807(d)(5)(A)$ of
21	the Internal Revenue Code of 1986)
22	used to determine reserves for group
23	annuity contracts issued on the date
24	as of which present value is being de-
25	termined (without regard to any other

1	subparagraph of section 807(d)(5) of
2	such Code).
3	"(II) Applicable interest
4	RATE.—The term 'applicable interest
5	rate' means the annual rate of inter-
6	est on 30-year Treasury securities for
7	the month before the date of distribu-
8	tion or such other time as the Sec-
9	retary of the Treasury may by regula-
10	tions prescribe.
11	"(B) EXCEPTION.—In the case of a dis-
12	tribution from a plan that was adopted and in
13	effect prior to the date of the enactment of the
14	Retirement Protection Act of 1994, the present
15	value of any distribution made before the ear-
16	lier of—
17	"(i) the later of when a plan amend-
18	ment applying subparagraph (A) is adopt-
19	ed or made effective, or
20	"(ii) the first day of the first plan
21	year beginning after December 31, 1999,
22	shall be calculated, for purposes of paragraphs
23	(1) and (2), using the interest rate determined
24	under the regulations of the Pension Benefit
25	Guaranty Corporation for determining the

present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 205(g)(3) as in effect on the day before such date of enactment."

(d) Effective Date.—

- (1) IN GENERAL.—The amendments made by this section shall apply to plan years and limitation years beginning after December 31, 1994; except that an employer may elect to treat the amendments made by this section as being effective on or after the date of the enactment of this Act.
- (2) No REDUCTION IN ACCRUED BENEFITS.—A participant's accrued benefit shall not be considered to be reduced in violation of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because (A) the benefit is determined in accordance with section 417(e)(3)(A) of such Code, as amended by this Act, or section 205(g)(3) of the Employee Retirement Income Security Act of 1974, as amended by this Act, or (B) the plan ap-

1	plies section 415(b)(2)(E) of such Code, as amended
2	by this Act.
3	(3) Section 415.—
4	(A) No reduction required.—An ac-
5	crued benefit shall not be required to be re-
6	duced below the accrued benefit as of the last
7	day of the last plan year beginning before Jan-
8	uary 1, 1995, merely because of the amend-
9	ments made by subsection (b).
10	(B) Timing of plan amendment.—A
11	plan that operates in accordance with the
12	amendments made by subsection (b) shall not
13	be treated as failing to satisfy section 401(a) of
14	the Internal Revenue Code of 1986 or as not
15	being operated in accordance with the provi-
16	sions of the plan until such date as the Sec-
17	retary of the Treasury provides merely because
18	the plan has not been amended to include the
19	amendments made by subsection (b).
20	SEC. 768. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM
21	FUNDING CONTRIBUTIONS.
22	(a) Amendments to the Internal Revenue
23	Code of 1986.—
24	(1) CLARIFICATION OF APPLICABILITY OF PRO-
25	VISION.—Paragraph (2) of section 412(n) is amend-

1	ed by adding at the end the following new sentence:
2	"This subsection shall not apply to any plan to
3	which section 4021 of the Employee Retirement In-
4	come Security Act of 1974 does not apply (as such
5	section is in effect on the date of the enactment of
6	the Retirement Protection Act of 1994).".
7	(2) Repeal of \$1,000,000 offset.—Paragraph
8	(3) of section 412(n) is amended to read as follows:
9	"(3) Amount of Lien.—For purposes of para-
10	graph (1), the amount of the lien shall be equal to
11	the aggregate unpaid balance of required install-
12	ments and other payments required under this sec-
13	tion (including interest)—
14	"(A) for plan years beginning after 1987,
15	and
16	"(B) for which payment has not been
17	made before the due date."
18	(3) Repeal of 60-day delay.—Section
19	412(n)(4)(B) is amended by striking "60th day fol-
20	lowing the".
21	(b) Amendments to the Employee Retirement
22	Income Security Act of 1974.—
23	(1) CLARIFICATION OF APPLICABILITY OF PRO-
24	VISION.—Section 302(f)(1) of the Employee Retire-
25	ment Income Security Act of 1974 (29 U.S.C.

1	1082(f)(1) is amended by striking "to which this
2	section applies" and inserting "covered under sec-
3	tion 4021 of this Act".
4	(2) Repeal of \$1,000,000 offset.—Paragraph
5	(3) of section 302(f) of such Act is amended to read
6	as follows:
7	"(3) Amount of Lien.—For purposes of para-
8	graph (1), the amount of the lien shall be equal to
9	the aggregate unpaid balance of required install-
10	ments and other payments required under this sec-
11	tion (including interest)—
12	"(A) for plan years beginning after 1987,
13	and
14	"(B) for which payment has not been
15	made before the due date."
16	(3) Repeal of 60-day delay.—Section
17	302(f)(4)(B) of such Act is amended by striking
18	"60th day following the".
19	(c) Effective Date.—The amendments made by
20	this section shall be effective for installments and other
21	payments required under section 412 of the Internal Reve-
22	nue Code of 1986 or under part 3 of subtitle B of the
23	Employee Retirement Income Security Act of 1974 that
24	become due on or after the date of enactment.

1 SEC. 769. SPECIAL FUNDING RULES FOR CERTAIN PLANS.

- 2 (a) Funding Rules Not To Apply to Certain
- 3 Plans.—Any changes made by this Act to section 412
- 4 of the Internal Revenue Code of 1986 or to part 3 of sub-
- 5 title B of title I of the Employee Retirement Income Secu-
- 6 rity Act of 1974 shall not apply to—
- 7 (1) a plan which is, on the date of enactment
- 8 of this Act, subject to a restoration payment sched-
- 9 ule order issued by the Pension Benefit Guaranty
- 10 Corporation that meets the requirements of section
- 1.412(c)(1)-3 of the Treasury Regulations, or
- 12 (2) a plan established by an affected air carrier
- 13 (as defined under section 4001(a)(14)(C)(ii)(I) of
- such Act) and assumed by a new plan sponsor pur-
- suant to the terms of a written agreement with the
- Pension Benefit Guaranty Corporation dated Janu-
- ary 5, 1993, and approved by the United States
- 18 Bankruptcy Court for the District of Delaware on
- 19 December 30, 1992.
- 20 (b) CHANGE IN ACTUARIAL METHOD.—Any amorti-
- 21 zation installments for bases established under section
- 22 412(b) of the Internal Revenue Code of 1986 and section
- 23 302(b) of the Employee Retirement Income Security Act
- 24 of 1974 for plan years beginning after December 31,
- 25 1987, and before January 1, 1993, by reason of
- 26 nonelective changes under the frozen entry age actuarial

- 1 cost method shall not be included in the calculation of off-
- 2 sets under section 412(l)(1)(A)(ii) of such Code and sec-
- 3 tion 302(d)(1)(A)(ii) of such Act for the 1st 5 plan years
- 4 beginning after December 31, 1994.
- 5 PART II—AMENDMENTS RELATED TO TITLE IV
- 6 **OF THE EMPLOYEE RETIREMENT INCOME**
- 7 **SECURITY ACT OF 1974**
- 8 SEC. 771. REPORTABLE EVENTS.
- 9 (a) Responsibility for Reportable Events Re-
- 10 PORTING.—Section 4043(a) of the Employee Retirement
- 11 Income Security Act of 1974 (29 U.S.C. 1343(a)) is
- 12 amended—
- 13 (1) in the first sentence, by inserting "or the
- contributing sponsor" before "knows or has reason
- to know";
- 16 (2) in the first sentence, by inserting ", unless
- a notice otherwise required under this subsection has
- already been provided with respect to such event"
- before the period at the end; and
- 20 (3) by striking the last sentence.
- 21 (b) Notification That Event Is About To
- 22 Occur.—Section 4043 of such Act is amended by redesig-
- 23 nating subsections (b), (c), and (d) as (c), (d), and (e),
- 24 respectively, and by inserting after subsection (a) the fol-
- 25 lowing new subsection:

1	"(b)(1) The requirements of this subsection shall be
2	applicable to a contributing sponsor if, as of the close of
3	the preceding plan year—
4	"(A) the aggregate unfunded vested benefits (as
5	determined under section 4006(a)(3)(E)(iii)) of
6	plans subject to this title which are maintained by
7	such sponsor and members of such sponsor's con-
8	trolled groups (disregarding plans with no unfunded
9	vested benefits) exceed \$50,000,000, and
0	"(B) the funded vested benefit percentage for
1	such plans is less than 90 percent.
2	For purposes of subparagraph (B), the funded vested ben-
3	efit percentage means the percentage which the aggregate
4	value of the assets of such plans bears to the aggregate
5	vested benefits of such plans (determined in accordance
6	with section $4006(a)(3)(E)(iii)$).
7	"(2) This subsection shall not apply to an event if
8	the contributing sponsor, or the member of the contribut-
9	ing sponsor's controlled group to which the event relates,
20	is—
21	"(A) a person subject to the reporting require-
22	ments of section 13 or 15(d) of the Securities Ex-
23	change Act of 1934, or

1	"(B) a subsidiary (as defined for purposes of
2	such Act) of a person subject to such reporting re-
3	quirements.
4	"(3) No later than 30 days prior to the effective date
5	of an event described in paragraph (9), (10), (11), (12),
6	or (13) of subsection (c), a contributing sponsor to which
7	the requirements of this subsection apply shall notify the
8	corporation that the event is about to occur.
9	"(4) The corporation may waive the requirement of
10	this subsection with respect to any or all reportable events
11	with respect to any contributing sponsor."
12	(c) New Reportable Events.—Subsection (c) of
13	section 4043 of such Act (as redesignated by subsection
14	(b)) is amended—
15	(1) by striking the "or" at the end of para-
16	graph (8);
17	(2) by striking paragraph (9); and
18	(3) by inserting after paragraph (8) the follow-
19	ing new paragraphs:
20	"(9) when, as a result of an event, a person
21	ceases to be a member of the controlled group;
22	$\lq\lq(10)$ when a contributing sponsor or a member
23	of a contributing sponsor's controlled group
24	liquidates in a case under title 11, United States

Code, or under any similar Federal law or law of a State or political subdivision of a State;

"(11) when a contributing sponsor or a member of a contributing sponsor's controlled group declares an extraordinary dividend (as defined in section 1059(c) of the Internal Revenue Code of 1986) or redeems, in any 12-month period, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent of more of the total value of shares of all classes of stock, of a contributing sponsor and all members of its controlled group;

"(12) when, in any 12-month period, an aggregate of 3 percent or more of the benefit liabilities of a plan covered by this title and maintained by a contributing sponsor or a member of its controlled group are transferred to a person that is not a member of the controlled group or to a plan or plans maintained by a person or persons that are not such a contributing sponsor or a member of its controlled group; or

"(13) when any other event occurs that may be indicative of a need to terminate the plan and that is prescribed by the corporation in regulations."

1	(d) DISCLOSURE EXEMPTION.—Section 4043 of such
2	Act is amended by adding at the end the following new
3	subsection:
4	"(f) Any information or documentary material sub-
5	mitted to the corporation pursuant to this section shall
6	be exempt from disclosure under section 552 of title 5,
7	United States Code, and no such information or documen-
8	tary material may be made public, except as may be rel-
9	evant to any administrative or judicial action or proceed-
10	ing. Nothing in this section is intended to prevent disclo-
11	sure to either body of Congress or to any duly authorized
12	committee or subcommittee of the Congress."
13	(e) Technical and Conforming Amendments.—
14	(1) Subsection (a) of section 4043 of such Act,
15	and subsections (d) and (e) of such section 4043 (as
16	redesignated by subsection (b)), are each amended
17	by striking "subsection (b)" each place it appears
18	and inserting "subsection (c)".
19	(2) Section 4042(a)(3) of such Act is amended
20	by striking ''4043(b)(7)'' and inserting

22 (f) EFFECTIVE DATE.—The amendments made by 23 this section shall be effective for events occurring 60 days 24 or more after the date of enactment of this Act.

"4043(c)(7)".

1	SEC. 772. CERTAIN INFORMATION REQUIRED TO BE FUR-
2	NISHED TO PBGC.
3	(a) GENERAL RULE.—Subtitle A of title IV of the
4	Employee Retirement Income Security Act of 1974 (29
5	$U.S.C.\ 1301$ et seq.) is amended by adding at the end
6	the following new section:
7	"SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-
8	TION.
9	"(a) Information Required.—Each person de-
10	scribed in subsection (b) shall provide the corporation an-
11	nually, on or before a date specified by the corporation
12	in regulations, with—
13	"(1) such records, documents, or other informa-
14	tion that the corporation specifies in regulations as
15	necessary to determine the liabilities and assets of
16	plans covered by this title; and
17	"(2) copies of such person's audited (or, if un-
18	available, unaudited) financial statements, and such
19	other financial information as the corporation may
20	prescribe in regulations.
21	"(b) Persons Required To Provide Informa-
22	$\ensuremath{TION}.\ensuremath{The}$ persons covered by subsection (a) are each
23	contributing sponsor, and each member of a contributing
24	sponsor's controlled group, of a single-employer plan cov-
25	ered by this title, if—

"(1) the aggregate unfunded vested benefits at the end of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed \$50,000,000 (disregarding plans with no unfunded vested benefits);

- "(2) the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met with respect to any plan maintained by the contributing sponsor or any member of its controlled group; or
- "(3) minimum funding waivers in excess of \$1,000,000 have been granted with respect to any plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding.
- "(c) Information Exempt From Disclosure Requirements.—Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceed-

ing. Nothing in this section is intended to prevent disclo-

- 1 sure to either body of Congress or to any duly authorized
- 2 committee or subcommittee of the Congress."
- 3 (b) CLERICAL AMENDMENT.—The table of contents
- 4 contained in section 1 of such Act is amended by inserting
- 5 after the item relating to section 4009 the following new
- 6 item:

"Sec. 4010. Authority to require certain information."

- 7 (c) Effective Date.—The amendments made by
- 8 this section shall be effective on the date of enactment of
- 9 this Act.
- 10 SEC. 773. ENFORCEMENT OF MINIMUM FUNDING REQUIRE-
- 11 MENTS.
- 12 (a) IN GENERAL.—Paragraph (1) of section 4003(e)
- 13 of the Employee Retirement Income Security Act of 1974
- 14 (29 U.S.C. 1303(e)(1)) is amended—
- 15 (1) by inserting "(A)" after "enforce"; and
- 16 (2) by striking the period after "title" and in-
- serting ", and (B) in the case of a plan which is cov-
- ered under this title (other than a multiemployer
- plan) and for which the conditions for imposition of
- a lien described in section 302(f)(1)(A) and (B) of
- 21 this Act or section 412(n)(1)(A) and (B) of the In-
- ternal Revenue Code of 1986 have been met, section
- 302 of this Act and section 412 of such Code."
- 24 (b) EFFECTIVE DATE.—The amendments made by
- 25 this section shall be effective for installments and other

1	payments required under section 302 of the Employee Re-
2	tirement Income Security Act of 1974 or section 412 of
3	the Internal Revenue Code of 1986 that become due on
4	or after the date of the enactment of this Act.
5	SEC. 774. COMPUTATION OF ADDITIONAL PBGC PREMIUM.
6	(a) Phase-Out of Variable Rate Premium
7	Cap.—
8	(1) IN GENERAL.—Subparagraph (E) of section
9	4006(a)(3) of the Employee Retirement Income Se-
10	curity Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is
11	amended by striking clause (iv), and by redesignat-
12	ing clause (v) as clause (iv).
13	(2) Effective date.—
14	(A) IN GENERAL.—The amendments made
15	by this subsection shall be effective for plan
16	years beginning on or after July 1, 1994.
17	(B) Transition rule.—In the case of
18	plan years beginning on or after July 1, 1994,
19	and before July 1, 1996, the additional pre-
20	mium payable with respect to any participant
21	by reason of the amendments made by this sec-
22	tion shall not exceed the sum of—
23	(i) \$53, and
24	(ii) the product derived by multiply-
25	ing—

1	(I) the excess (if any) of the
2	amount determined under clause (i) of
3	section $4006(a)(3)(E)$ of the Em-
4	ployee Retirement Income Security
5	Act of 1974, over \$53, by
6	(II) the applicable percentage.
7	For purposes of this subparagraph, the applica-
8	ble percentage shall be the percentage specified
9	in the following table:
	For the plan year beginning: The applicable per-
	on or after but before centage is:
	July 1, 1994 July 1, 1995 20 percent July 1, 1995 July 1, 1996 60 percent
10	(b) Interest Rate and Asset Valuation.—
11	(1) Interest rate.—Subclause (II) of section
12	4006(a)(3)(E)(iii) of the Employee Retirement In-
13	come Security Act of 1974 is amended—
14	(A) by striking "80 percent" and inserting
15	"the applicable percentage", and
16	(B) by adding at the end the following new
17	sentence: "For purposes of this subclause, the
18	applicable percentage is 80 percent for plan
19	years beginning before July 1, 1997, 85 percent
20	for plan years beginning after June 30, 1997,
21	and before the 1st plan year to which the first
22	tables prescribed under section

1	302(d)(7)(C)(ii)(II) apply, and 100 percent for
2	such 1st plan year and subsequent plan years."
3	(2) Asset valuation.—Clause (iii) of section
4	4006(a)(3)(E) of such Act is amended—
5	(A) by inserting "or (III)" after
6	"subclause (II)" in subclause (I), and
7	(B) by adding at the end the following new
8	subclause:
9	"(III) In the case of any plan
10	year for which the applicable percent-
11	age under subclause (II) is 100 per-
12	cent, the value of the plan's assets
13	used in determining unfunded current
14	liability under subclause (I) shall be
15	their fair market value."
16	(3) Effective date.—The amendments made
17	by this subsection shall apply to plan years begin-
18	ning after the date of the enactment of this Act.
19	(c) Transition Rule for Certain Regulated
20	Public Utilities.—In the case of a regulated public util-
21	ity described in section 7701(a)(33)(A)(i) of the Internal
22	Revenue Code of 1986, the amendments made by this sec-
23	tion shall not apply to plan years beginning before the ear-
24	lier of—
25	(1) January 1, 1998, or

(2) the date the regulated public utility begins 1 2 to collect from utility customers rates that reflect the costs incurred or projected to be incurred for ad-3 ditional premiums under section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 5 1974 pursuant to final and nonappealable deter-6 minations by all public utility commissions (or other 7 authorities having jurisdiction over the rates and 8 terms of service by the regulated public utility) that 9 the costs are just and reasonable and recoverable 10 11 from customers of the regulated public utility.

12 SEC. 775. DISCLOSURE TO PARTICIPANTS.

- 13 (a) Participant Notice Requirement.—Subtitle
- 14 A of title IV of the Employee Retirement Income Security
- 15 Act of 1974 (as amended by section 772 of this Act) is
- 16 further amended by adding at the end the following new
- 17 section:

18 "SEC. 4011. NOTICE TO PARTICIPANTS.

- 19 "(a) IN GENERAL.—The plan administrator of a plan
- 20 subject to the additional premium under section
- 21 4006(a)(3)(E) shall provide, in a form and manner and
- 22 at such time as prescribed in regulations of the corpora-
- 23 tion, notice to plan participants and beneficiaries of the
- 24 plan's funding status and the limits on the corporation's
- 25 guaranty should the plan terminate while underfunded.

- 1 Such notice shall be written in a manner so as to be under-
- 2 stood by the average plan participant.
- 3 "(b) Exception.—Subsection (a) shall not apply to
- 4 any plan to which section 302(d) does not apply for the
- 5 plan year by reason of paragraph (9) thereof."
- 6 (b) CLERICAL AMENDMENT.—The table of contents
- 7 contained in section 1 of such Act is amended by inserting
- 8 after the item relating to section 4010 (as added by sec-
- 9 tion 772 of this Act) the following new item:

"Sec. 4011. Notice to participants."

- 10 (c) Effective Date.—The amendment made by
- 11 this section shall be effective for plan years beginning after
- 12 the date of enactment of this Act.
- 13 SEC. 776. MISSING PARTICIPANTS.
- (a) IN GENERAL.—Subtitle C of title IV of the Em-
- 15 ployee Retirement Income Security Act of 1974 (29
- 16 U.S.C. 1341 et seq.) is amended by adding at the end
- 17 the following new section:
- 18 "SEC. 4050. MISSING PARTICIPANTS.
- 19 "(a) GENERAL RULE.—
- 20 "(1) Payment to the corporation.—A plan
- administrator satisfies section 4041(b)(3)(A) in the
- case of a missing participant only if the plan admin-
- 23 istrator—
- 24 "(A) transfers the participant's designated
- benefit to the corporation or purchases an irrev-

1	ocable commitment from an insurer in accord-
2	ance with clause (i) of section $4041(b)(3)(A)$,
3	and
4	"(B) provides the corporation such infor-
5	mation and certifications with respect to such
6	designated benefits or irrevocable commitments
7	as the corporation shall specify.
8	"(2) Treatment of transferred assets.—
9	A transfer to the corporation under this section shall
10	be treated as a transfer of assets from a terminated
11	plan to the corporation as trustee, and shall be held
12	with assets of terminated plans for which the cor-
13	poration is trustee under section 4042, subject to
14	the rules set forth in that section.
15	"(3) Payment by the corporation.—After a
16	missing participant whose designated benefit was
17	transferred to the corporation is located—
18	"(A) in any case in which the plan could
19	have distributed the benefit of the missing par-
20	ticipant in a single sum without participant or
21	spousal consent under section 205(g), the cor-
22	poration shall pay the participant or beneficiary
23	a single sum benefit equal to the designated
24	benefit paid the corporation plus interest as
25	specified by the corporation, and

1	"(B) in any other case, the corporation
2	shall pay a benefit based on the designated ben-
3	efit and the assumptions prescribed by the cor-
4	poration at the time that the corporation re-
5	ceived the designated benefit.
6	The corporation shall make payments under sub-
7	paragraph (B) available in the same forms and at
8	the same times as a guaranteed benefit under sec-
9	tion 4022 would be available to be paid, except that
10	the corporation may make a benefit available in the
11	form of a single sum if the plan provided a single
12	sum benefit (other than a single sum described in
13	subsection $(b)(2)(A)$.
14	"(b) Definitions.—For purposes of this section—
15	"(1) Missing participant.—The term 'miss-
16	ing participant' means a participant or beneficiary
17	under a terminating plan whom the plan adminis-
18	trator cannot locate after a diligent search.
19	"(2) Designated Benefit.—The term 'des-
20	ignated benefit' means the single sum benefit the
21	participant would receive—
22	"(A) under the plan's assumptions, in the
23	case of a distribution that can be made without
24	participant or spousal consent under section
25	205(g);

1	"(B) under the assumptions of the cor-
2	poration in effect on the date that the des-
3	ignated benefit is transferred to the corpora-
4	tion, in the case of a plan that does not pay any
5	single sums other than those described in sub-
6	paragraph (A); or
7	"(C) under the assumptions of the cor-
8	poration or of the plan, whichever provides the
9	higher single sum, in the case of a plan that
10	pays a single sum other than those described in
11	subparagraph (A).
12	"(c) Regulatory Authority.—The corporation
13	shall prescribe such regulations as are necessary to carry
14	out the purposes of this section, including rules relating
15	to what will be considered a diligent search, the amount
16	payable to the corporation, and the amount to be paid by
17	the corporation."
18	(b) Conforming Title IV Amendments.—
19	(1) Amendment to section 4003.—Section
20	4003(a) of such Act (29 U.S.C. 1303(a)) is amend-
21	ed in the second sentence by inserting before the pe-
22	riod the following: "and whether section 4050(a) has
23	been satisfied".
24	(2) Amendment to section 4005.—Section
25	4005(b)(2)(A) of such Act (29 U.S.C.

- 1 1305(b)(2)(A)) is amended by inserting "or benefits 2 payable under section 4050" after "section 4022A".
- 4 4041(b)(3)(A)(ii) of such Act (29 U.S.C.

(3) AMENDMENT TO SECTION 4041.—Section

- 5 1341(b)(3)(A)(ii)) is amended by adding at the end
- 6 the following new sentence: "A transfer of assets to
- 7 the corporation in accordance with section 4050 on
- 8 behalf of a missing participant shall satisfy this sub-
- 9 paragraph with respect to such participant."
- 10 (c) Conforming ERISA Amendments.—
- 11 (1) The table of contents contained in section
- 12 1 of the Employee Retirement Income Security Act
- of 1974 is amended by inserting after the item relat-
- ed to section 4049 the following new item:

"Sec. 4050. Missing participants."

- 15 (2) Section 206 of such Act (29 U.S.C. 1056)
- is amended by adding at the end the following new
- 17 subsection:

- 18 "(f) Missing Participants in Terminated
- 19 PLANS.—In the case of a plan covered by title IV, the
- 20 plan shall provide that, upon termination of the plan, ben-
- 21 efits of missing participants shall be treated in accordance
- 22 with section 4050."
- 23 (d) Conforming Internal Revenue Code
- 24 AMENDMENTS.—Section 401(a), as amended by section

- 1 766 of this Act, is further amended by inserting after
- 2 paragraph (33) the following new paragraph:
- 3 "(34) Benefits of missing participants on
- 4 PLAN TERMINATION.—In the case of a plan covered
- 5 by title IV of the Employee Retirement Income Se-
- 6 curity Act of 1974, a trust forming part of such
- 7 plan shall not be treated as failing to constitute a
- 8 qualified trust under this section merely because the
- 9 pension plan of which such trust is a part, upon its
- termination, transfers benefits of missing partici-
- pants to the Pension Benefit Guaranty Corporation
- in accordance with section 4050 of such Act."
- 13 (e) Effective Date.—The provisions of this section
- 14 shall be effective with respect to distributions that occur
- 15 in plan years commencing after final regulations imple-
- 16 menting these provisions are prescribed by the Pension
- 17 Benefit Guaranty Corporation.
- 18 SEC. 777. MODIFICATION OF MAXIMUM GUARANTEE FOR
- 19 **DISABILITY BENEFITS.**
- 20 (a) IN GENERAL.—Section 4022(b)(3) of the Em-
- 21 ployee Retirement Income Security Act of 1974 (29
- 22 U.S.C. 1322(b)(3)) is amended by adding at the end the
- 23 following new sentences: "The maximum guaranteed
- 24 monthly benefit shall not be reduced solely on account of
- 25 the age of a participant in the case of a benefit payable

- 1 by reason of disability that occurred on or before the ter-
- 2 mination date, if the participant demonstrates to the satis-
- 3 faction of the corporation that the Social Security Admin-
- 4 istration has determined that the participant satisfies the
- 5 definition of disability under title II or XVI of the Social
- 6 Security Act, and the regulations thereunder. If a benefit
- 7 payable by reason of disability is converted to an early
- 8 or normal retirement benefit for reasons other than a
- 9 change in the health of the participant, such early or nor-
- 10 mal retirement benefit shall be treated as a continuation
- 11 of the benefit payable by reason of disability and this sub-
- 12 paragraph shall continue to apply."
- 13 (b) Effective Date.—The amendment made by
- 14 this section shall be effective for plan terminations under
- 15 section 4041(c) of the Employee Retirement Income Secu-
- 16 rity Act of 1974 with respect to which notices of intent
- 17 to terminate are provided under section 4041(a)(2) of
- 18 such Act, or under section 4042 of such Act with respect
- 19 to which proceedings are instituted by the corporation, on
- 20 or after the date of enactment of this Act.
- 21 SEC. 778. PROCEDURES TO FACILITATE DISTRIBUTION OF
- 22 **TERMINATION BENEFITS.**
- 23 (a) Remedies for Noncompliance With Re-
- 24 QUIREMENTS FOR STANDARD TERMINATION.—

1	(1) Notice of noncompliance.—Section
2	4041(b)(2)(C)(i) of the Employee Retirement In-
3	come Security Act of 1974 (29 U.S.C
4	1341(b)(2)(C)(i)) is amended—
5	(A) by striking subclause (I) and inserting
6	the following new subclause:
7	"(I) it determines, based on the
8	notice sent under paragraph (2)(A) of
9	subsection (b), that there is reason to
10	believe that the plan is not sufficient
11	for benefit liabilities,";
12	(B) by striking the period at the end of
13	subclause (II) and inserting ", or"; and
14	(C) by adding at the end the following new
15	subclause:
16	"(III) it determines that any
17	other requirement of subparagraph
18	(A) or (B) of this paragraph or of
19	subsection (a)(2) has not been met
20	unless it further determines that the
21	issuance of such notice would be in-
22	consistent with the interests of par-
23	ticipants and beneficiaries."
24	(2) Effective date.—The amendments made
25	by this subsection shall apply to any plan termi-

1	nation under section 4041(b) of the Employee Re-
2	tirement Income Security Act of 1974 with respect
3	to which the Pension Benefit Guaranty Corporation
4	has not, as of the date of enactment of this Act, is-
5	sued a notice of noncompliance that has become
6	final, or otherwise issued a final determination that
7	the plan termination is nullified.
8	(b) DISTRESS TERMINATION CRITERIA FOR BANK-
9	ING INSTITUTIONS.—
10	(1) Clarification of distress criterion.—
11	Subclause (I) of section $4041(c)(2)(B)(i)$ of the Em-
12	ployee Retirement Income Security Act of 1974 (29
13	U.S.C. 1341(c)(2)(B)(i)) is amended by inserting
14	after "under any similar" the following: "Federal
15	law or".
16	(2) Effective date.—The amendment made
17	by this subsection shall be effective as if included in
18	the Single-Employer Pension Plan Amendments Act
19	of 1986.
20	PART III—EFFECTIVE DATES
21	SEC. 781. EFFECTIVE DATES.
22	Except as otherwise provided in this subtitle, the
23	amendments made by this subtitle shall be effective on the

24 date of enactment of this Act.

TITLE VIII—PIONEER 1 **PREFERENCES** 2 3 SEC. 801. PIONEER PREFERENCES. Section 309(j) of the Communications Act of 1934 4 (47 U.S.C. 309(j)) is amended by adding at the end the 5 following new paragraph: 6 7 "(13) Recovery of value of public spec-8 TRUM IN CONNECTION **PIONEER** WITH PREF-9 ERENCES.— "(A) IN GENERAL.—Notwithstanding para-10 graph (6)(G), the Commission shall not award 11 12 licenses pursuant to a preferential treatment accorded by the Commission to persons who 13 14 make significant contributions to the development of a new telecommunications service or 15 technology, except in accordance with the re-16 17 quirements of this paragraph. "(B) RECOVERY OF VALUE.—The Commis-18 19 sion shall recover for the public a portion of the 20 value of the public spectrum resource made 21 available to such person by requiring such person, as a condition for receipt of the license, to 22 23 agree to pay a sum determined by— 24 "(i) identifying the winning bids for the licenses that the Commission deter-25

1	mines are most reasonably comparable in
2	terms of bandwidth, scope of service area,
3	usage restrictions, and other technical
4	characteristics to the license awarded to
5	such person, and excluding licenses that
6	the Commission determines are subject to
7	bidding anomalies due to the award of
8	preferential treatment;
9	''(ii) dividing each such winning bid
10	by the population of its service area (here-
11	inafter referred to as the per capita bid
12	amount);
13	"(iii) computing the average of the
14	per capita bid amounts for the licenses
15	identified under clause (i);
16	''(iv) reducing such average amount
17	by 15 percent; and
18	"(v) multiplying the amount deter-
19	mined under clause (iv) by the population
20	of the service area of the license obtained
21	by such person.
22	"(C) Installments permitted.—The
23	Commission shall require such person to pay
24	the sum required by subparagraph (B) in a
25	lump sum or in guaranteed installment pay-

1	ments, with or without royalty payments, over
2	a period of not more than 5 years.
3	"(D) RULEMAKING ON PIONEER PREF-
4	ERENCES.—Except with respect to pending ap-
5	plications described in clause (iv) of this sub-
6	paragraph, the Commission shall prescribe reg-
7	ulations specifying the procedures and criteria
8	by which the Commission will evaluate applica-
9	tions for preferential treatment in its licensing
10	processes (by precluding the filing of mutually
11	exclusive applications) for persons who make
12	significant contributions to the development of
13	a new service or to the development of new
14	technologies that substantially enhance an exist-
15	ing service. Such regulations shall—
16	"(i) specify the procedures and cri-
17	teria by which the significance of such con-
18	tributions will be determined, after an op-
19	portunity for review and verification by ex-
20	perts in the radio sciences drawn from
21	among persons who are not employees of
22	the Commission or by any applicant for
23	such preferential treatment;
24	"(ii) include such other procedures as
25	may be necessary to prevent unjust enrich-

1	ment by ensuring that the value of any
2	such contribution justifies any reduction in
3	the amounts paid for comparable licenses
4	under this subsection;
5	"(iii) be prescribed not later than 6
6	months after the date of enactment of this
7	paragraph;
8	"(iv) not apply to applications that
9	have been accepted for filing on or before
10	September 1, 1994; and
11	"(v) cease to be effective on the date
12	of the expiration of the Commission's au-
13	thority under subparagraph (F).
14	"(E) IMPLEMENTATION WITH RESPECT TO
15	PENDING APPLICATIONS.—In applying this
16	paragraph to any broadband licenses in the per-
17	sonal communications service awarded pursuant
18	to the preferential treatment accorded by the
19	Federal Communications Commission in the
20	Third Report and Order in General Docket 90-
21	314 (FCC 93-550, released February 3,
22	1994)—
23	"(i) the Commission shall not recon-
24	sider the award of preferences in such
25	Third Report and Order, and the Commis-

1	sion shall not delay the grant of licenses
2	based on such awards more than 15 days
3	following the date of enactment of this
4	paragraph, and the award of such pref-
5	erences and licenses shall not be subject to
6	administrative or judicial review;
7	"(ii) the Commission shall not alter
8	the bandwidth or service areas designated
9	for such licenses in such Third Report and
10	Order;
11	"(iii) except as provided in clause (v),
12	the Commission shall use, as the most rea-
13	sonably comparable licenses for purposes of
14	subparagraph (B)(i), the broadband li-
15	censes in the personal communications
16	service for blocks A and B for the 20 larg-
17	est markets (ranked by population) in
18	which no applicant has obtained pref-
19	erential treatment;
20	"(iv) for purposes of subparagraph
21	(C), the Commission shall permit guaran-
22	teed installment payments over a period of
23	5 years, subject to—
24	"(I) the payment only of interest
25	on unpaid balances during the first 2

I	years, commencing not later than 30
2	days after the award of the license
3	(including any preferential treatment
4	used in making such award) is final
5	and no longer subject to administra-
6	tive or judicial review, except that no
7	such payment shall be required prior
8	to the date of completion of the auc-
9	tion of the comparable licenses de-
10	scribed in clause (iii); and
11	"(II) payment of the unpaid bal-
12	ance and interest thereon after the
13	end of such 2 years in accordance
14	with the regulations prescribed by the
15	Commission; and
16	"(v) the Commission shall recover
17	with respect to broadband licenses in the
18	personal communications service an
19	amount under this paragraph that is equal
20	to not less than \$400,000,000, and if such
21	amount is less than \$400,000,000, the
22	Commission shall recover an amount equal
23	to \$400,000,000 by allocating such amount
24	among the holders of such licenses based

1	on the population of the license areas held
2	by each licensee.
3	The Commission shall not include in any
4	amounts required to be collected under clause
5	(v) the interest on unpaid balances required to
6	be collected under clause (iv).
7	"(F) Expiration.—The authority of the
8	Commission to provide preferential treatment in
9	licensing procedures (by precluding the filing of
10	mutually exclusive applications) to persons who
11	make significant contributions to the develop-
12	ment of a new service or to the development of
13	new technologies that substantially enhance an
14	existing service shall expire on September 30,
15	1998.
16	"(G) Effective date.—This paragraph
17	shall be effective on the date of its enactment
18	and apply to any licenses issued on or after Au-
19	gust 1, 1994, by the Federal Communications
20	Commission pursuant to any licensing proce-
21	dure that provides preferential treatment (by
22	precluding the filing of mutually exclusive appli-
23	cations) to persons who make significant con-

tributions to the development of a new service

- or to the development of new technologies that
- 2 substantially enhance an existing service.".

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